

Message

From: Peck, Gregory [Peck.Gregory@epa.gov]
Sent: 1/5/2017 3:03:11 PM
To: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
CC: Wehling, Carrie [Wehling.Carrie@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]; Best-Wong, Benita [Best-Wong.Benita@epa.gov]
Subject: RE: Document Request for Stan Meiburg from Redwood City 404 Share Site

Good idea.

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Neugeboren, Steven
Sent: Thursday, January 05, 2017 9:47 AM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: Re: Document Request for Stan Meiburg from Redwood City 404 Share Site

We will add this info to our weekly mtg with Avi at 1.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC. 20460
202-564-5488

On Jan 5, 2017, at 9:13 AM, Peck, Gregory <Peck.Gregory@epa.gov> wrote:

I think we had a strong sense from Regional staff – including ORC, that they intended to

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Wehling, Carrie
Sent: Thursday, January 05, 2017 8:52 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>;
Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>
Subject: FW: Document Request for Stan Meiburg from Redwood City 404 Share Site
Importance: High

Did we know about this? Should we let Avi know – might need to let Stan know **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Copying Greg and Benita for SA.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Threet, Derek
Sent: Thursday, January 05, 2017 8:43 AM
To: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Document Request for Stan Meiburg from Redwood City 404 Share Site
Importance: High

Carrie and Karyn –

Deliberative Process / Ex. 5

Any assistance you can provide would be wonderful.

Thanks.

Derek

Derek Jason Threet, Special Assistant
Office of the Administrator (OW, OEI, OCFO)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, D.C. 20004
Telephone: (202) 564-1409
Office Cell Phone: **Personal Phone / Ex. 6**

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 1/12/2017 6:22:14 PM
To: Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Peck, Gregory [Peck.Gregory@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: draft cover note
Attachments: Principles Memo Response Cover Note from Avi.docx

Comments welcome. Thanks.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Neugeboren, Steven
Sent: Thursday, January 12, 2017 12:34 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: Any progress?

I just spoke with her. I told her we'd have a final draft for her to look at today once Simma makes some final revisions. So Simma please email to her when you're done

(Carrie – simma and I discussed **Deliberative Process / Ex. 5**)

Then we need to draft **Deliberative Process / Ex. 5** I'm thinking **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5 But that's just thought.

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Peck, Gregory
Sent: Thursday, January 12, 2017 12:31 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: Any progress?

Thanks Steve. Any advice from Stacey regarding **Deliberative Process / Ex. 5**? How do we keep that moving?

Gregory E. Peck
Chief of Staff
Office of Water

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Neugeboren, Steven
Sent: Thursday, January 12, 2017 12:27 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: Any progress?

Deliberative Process / Ex. 5

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Peck, Gregory
Sent: Thursday, January 12, 2017 10:23 AM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: RE: Any progress?

Thnx. I have a couple of thoughts which I'll include with Wetlands Division suggestions as soon as I get them. One issue for your consideration is whether Deliberative Process / Ex. 5 It doesn't seem to Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Deliberative Process / Ex. 5
Deliberative Process / Ex. 5? Also wonder if Deliberative Process / Ex. 5
Deliberative Process / Ex. 5?

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Wehling, Carrie
Sent: Thursday, January 12, 2017 10:18 AM
To: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: RE: Any progress?

Simma is working thru some comments from us and then will send to Avi and Stacey. She does not have outgoing email access so will have to go to a hotspot to send it thru remote access....

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Wendelowski, Karyn
Sent: Wednesday, January 11, 2017 3:48 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: Re: Any progress?

Carrie and Steve are reviewing Simma's draft now and I just talked thru some comments with her.

From: Peck, Gregory
Sent: Wednesday, January 11, 2017 3:47 PM
To: Wendelowski, Karyn
Subject: Any progress?

Still planning to get something to Stan this evening? Thanks

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

Message

From: Wehling, Carrie [Wehling.Carrie@epa.gov]
Sent: 1/12/2017 3:18:01 PM
To: Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]
CC: Wendelowski, Karyn [wendelowski.karyn@epa.gov]
Subject: RE: cargill memo

I agree with Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Neugeboren, Steven
Sent: Thursday, January 12, 2017 9:54 AM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: cargill memo

I think it looks very good. I left some minor comments in your box.

I actually liked jessica's intro paragraph but interested in what you all think.

I'm not understanding exactly what we are saying about Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5	I would think also	Deliberative Process / Ex. 5
to me	Deliberative Process / Ex. 5	It seems

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 1/9/2017 7:41:49 PM
To: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Subject: FW: ASAP FW: Cargill legal analysis
Attachments: Cargill Draft Corps Rebuttal Points OWOW (R9 edit).docx

Just coming back from a meeting and saw that Steve didn't receive this.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Moffatt, Brett
Sent: Monday, January 09, 2017 1:36 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Cc: Kao, Jessica <Kao.Jessica@epa.gov>; Kermish, Laurie <Kermish.Laurie@epa.gov>
Subject: RE: ASAP FW: Cargill legal analysis

Simma and Carrie,

I have attached my comments and suggested edits. The main edits -

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Talk to you soon,

Brett

Brett Moffatt
US EPA, Region 9, ORC
(415) 972-3946

From: Kermish, Laurie
Sent: Wednesday, January 04, 2017 3:53 PM
To: Moffatt, Brett <Moffatt.Brett@epa.gov>; Kao, Jessica <Kao.Jessica@epa.gov>
Cc: Quast, Sylvia <Quast.Sylvia@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: ASAP FW: Cargill legal analysis

ATTORNEY-CLIENT COMMUNICATION

Jessica, this is just an FYI for you as you track the status of this Special Case.

Brett, I know you are on leave, but can you please take a quick look at this? (We can figure out how to cancel some leave and not have you lose it.) I'm also hoping you can attend the briefing they have scheduled for Mike Shapiro on Monday. (Sylvia I assume you are likely conflicted with the HI meetings?)

Steve, Brett has been the primary staff attorney on this matter so I'm trying to get his review, although he is on leave until Monday....tight time frame.

From: Neugeboren, Steven

Sent: Wednesday, January 04, 2017 3:34 PM

To: Quast, Sylvia <Quast.Sylvia@epa.gov>; Kermish, Laurie <Kermish.Laurie@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>

Subject: Cargill legal analysis

I tried reaching Sylvia (but her voicemail said she is out and not checking messages) and then left a voicemail for Laurie. As I indicated in my message, we were asked to

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Our draft analysis is attached and we'd like the region's review and input. Please provide any comments to Simma by noon Monday. Happy to set up a call to discuss.

There is a briefing scheduled with Mike Shapiro about this Monday at 430. Let us know if you'd like to participate.

We envision

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

Appointment

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 1/9/2017 7:41:03 PM
To: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Subject: Accepted: touch base on cargill before cal with region
Start: 1/9/2017 7:45:00 PM
End: 1/9/2017 8:00:00 PM
Show Time As: Busy

Appointment

From: Wehling, Carrie [Wehling.Carrie@epa.gov]
Sent: 1/9/2017 7:20:42 PM
To: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Subject: Tentative: touch base on cargill before cal with region
Start: 1/9/2017 7:45:00 PM
End: 1/9/2017 8:00:00 PM

Recurrence: (none)

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 1/4/2017 7:31:12 PM
To: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
CC: Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: FW: For Thursday afternoon - Cargill cover note for your review
Attachments: Cover memo for Legal Principles Memo for OW&SN review gep edits.docx

Hi Steve,

Can you let me know at your convenience whether you're ok with Greg's edits? He makes it more fact-specific, and I wasn't sure whether Avi wanted to keep the memo and transmittal more general. Either approach works for me. Thanks!

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Peck, Gregory
Sent: Wednesday, January 04, 2017 2:24 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Re: For Thursday afternoon - Cargill cover note for your review

Simma - please see my suggested edits to the draft cover memo. Glad to discuss my thoughts in preparing these changes.

I'll also review the attachment.

Thanks

From: Kupchan, Simma
Sent: Wednesday, January 4, 2017 11:36:49 AM
To: Peck, Gregory; Best-Wong, Benita; Neugeboren, Steven
Cc: Goodin, John; Downing, Donna; Wehling, Carrie
Subject: RE: For Thursday afternoon - Cargill cover note for your review

Also, please note in particular that the draft cover note is addressed to the RAs, cc-ing the Corps chief counsel. Let us know if you agree with that approach or would like to change it. Thanks.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Kupchan, Simma

Sent: Wednesday, January 04, 2017 11:27 AM

To: Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Steven Neugeboren <Neugeboren.Steven@epa.gov>

Cc: John Goodin <Goodin.John@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Carrie Wehling <Wehling.Carrie@epa.gov>

Subject: For Thursday afternoon - Cargill cover note for your review

Importance: High

All,

Attached for your review is a revised draft of OW's initial cover note for the Cargill memorandum (also attached for your convenience.)

Please send me edits by 3:30 pm tomorrow, Thursday, so that we can incorporate them and prepare to send the draft note along with the memo to Mike Shapiro before the weekend, in advance of his Monday briefing on this.

Thank you!

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

Message

From: Wehling, Carrie [Wehling.Carrie@epa.gov]
Sent: 1/12/2017 3:53:11 AM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]
CC: Wendelowski, Karyn [wendelowski.karyn@epa.gov]
Subject: Re: Legal memo rebuttal
Attachments: Cargill Draft Corps Rebuttal Points 1.11.17.cw.docx

After taking a look at

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

It seems to me that the aspects of

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

See my two edits on p. 8 (attached).

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
Office of General Counsel
U.S. Environmental Protection Agency
202-564-5492
wehling.carrie@epa.gov

From: Kupchan, Simma
Sent: Wednesday, January 11, 2017 3:04 PM
To: Neugeboren, Steven; Mitchell, Stacey
Cc: Wehling, Carrie; Wendelowski, Karyn
Subject: RE: Legal memo rebuttal

Stacey,

Here is the latest draft. It contains relatively minor edits from R9 that Steve and Carrie have not yet reviewed, but they have reviewed the bulk of it.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

-----Original Message-----

From: Neugeboren, Steven
Sent: Wednesday, January 11, 2017 2:26 PM
To: Mitchell, Stacey <Mitchell.Stacey@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Subject: Re: Legal memo rebuttal

But there's a certainly a near final draft Simma can send you.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC. 20460

ED_002358_00034934-00001

> On Jan 11, 2017, at 12:01 PM, Mitchell, Stacey <Mitchell.Stacey@epa.gov> wrote:

>

> Fabulous. Thx

>

> Stacey H. Mitchell

> Office of General Counsel

> Environmental Protection Agency

> Sent from my iPhone

>

>> On Jan 11, 2017, at 11:59 AM, Kupchan, Simma <Kupchan.Simma@epa.gov> wrote:

>>

>> We wrote it, and I am now incorporating final edits from R9 to it. We should have the final version including R9's edits by a little later today.

>>

>> Simma Kupchan

>> Water Law Office

>> US EPA Office of General Counsel

>> William Jefferson Clinton Building North Room 7426Q

>> (p) 202-564-3105

>>

>> -----Original Message-----

>> From: Mitchell, Stacey

>> Sent: Wednesday, January 11, 2017 11:56 AM

>> To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

>> Subject: Legal memo rebuttal

>>

>> I understand there is a draft of **Deliberative Process / Ex. 5** Have you seen it?

>>

>> Stacey H. Mitchell

>> Office of General Counsel

>> Environmental Protection Agency

>> Sent from my iPhone

Message

From: Peck, Gregory [Peck.Gregory@epa.gov]
Sent: 1/11/2017 11:34:19 PM
To: Mitchell, Stacey [Mitchell.Stacey@epa.gov]
CC: Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: Re: cargill docs

I guess what influenced me was that Stan described what he wanted then said to Avi he wanted him to join the discussion. But I expect Gina will be looking to Avi for the explanation so this approach makes perfect sense.

Gregory E. Peck
Chief of Staff
Office of Water
U.S.Environmental Protection Agency
Washington, DC 20460

(202)564-5700

On Jan 11, 2017, at 6:19 PM, Mitchell, Stacey <Mitchell.Stacey@epa.gov> wrote:

Greg – I'll check in with Avi, but my sense was that these were for Avi's purpose when he and Stan speak with her -- knowing she would ask questions

Stacey H. Mitchell
Deputy General Counsel
U.S. Environmental Protection Agency
(202) 564-7614

From: Neugeboren, Steven
Sent: Wednesday, January 11, 2017 6:15 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Cc: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Mitchell, Stacey <Mitchell.Stacey@epa.gov>
Subject: cargill docs

I'm adding Stacey to the email chain so she can see Greg's message below. This sounds somewhat different that I thought our product was (talking points for Avi for a conversation with Gina). I think our paper though does cover the legal issues. thoughts Stacey?

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Peck, Gregory
Sent: Wednesday, January 11, 2017 6:12 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>;

Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: Re: Any progress?

Stan asked for these so he could give to Gina - I actually heard his ask as Deliberative Process / Ex. 5 The goal
is to give Gina Deliberative Process / Ex. 5
Deliberative Process / Ex. 5

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
Washington, DC 20460

(202)564-5700

On Jan 11, 2017, at 5:42 PM, Neugeboren, Steven <Neugeboren.Steven@epa.gov> wrote:

First I've heard of getting something to Stan. I had heard these were talking points for Avi. As you know he has the draft we sent you.

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Wendelowski, Karyn
Sent: Wednesday, January 11, 2017 3:48 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: Re: Any progress?

Carrie and Steve are reviewing Simma's draft now and I just talked thru some comments with her.

From: Peck, Gregory
Sent: Wednesday, January 11, 2017 3:47 PM
To: Wendelowski, Karyn
Subject: Any progress?

Still planning to get something to Stan this evening? Thanks

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 1/11/2017 10:27:23 PM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Subject: USE THIS VERSION OF CARGILL REBUTTAL MEMO
Attachments: Cargill Draft Corps Rebuttal Points With R9 Edits.docx

Steve and Carrie,

Please use this revised version if you haven't already reviewed R9's edits to the Cargill memo. The only change from the previous version I sent is that this includes a second version of the first paragraph, suggested by Jessica Kao. I pasted that in after the current introductory paragraph to let you choose which version you prefer.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

Message

From: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Sent: 8/6/2018 9:05:05 PM
To: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Subject: FW: please print in color
Attachments: Working Draft JD (R9 Nov 21 2016).docx

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Neugeboren, Steven
Sent: Monday, August 6, 2018 2:13 PM
To: Shaw, Carla <Shaw.Carla@epa.gov>
Subject: please print in color

Carla – can you please print this out in color by COB today.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Kupchan, Simma
Sent: Monday, August 6, 2018 2:03 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: Redwood City Saltworks EPA draft JD

David,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Please let me know if you have any questions. Thank you.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 9/13/2018 1:45:59 PM
To: OGC WLO [OGC_WLO@epa.gov]
Subject: my weekly with david yesterday - 1st item for everyone - and read if you can before reg review on a few items

With the new sharepoint CTS system, confirmed we no longer need to email things separately to him. ☺

On florida, Matt wants to **Deliberative Process / Ex. 5**

- Given his email last night we should be prepared to discuss **Deliberative Process / Ex. 5** at reg review but I'm not sure how **Deliberative Process / Ex. 5**

Wotus

- The plan is still for matt and david to **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5

Cargill **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Waterkeeper appeal. – I gave him a preview of some of **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5

Netpens – he thought we had **Deliberative Process / Ex. 5**

Mo. Gave him the latest info we have in terms of roles. **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/7/2018 12:26:15 PM
To: Shaw, Carla [Shaw.Carla@epa.gov]
Subject: Re: please print in color

Thanks.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

On Aug 7, 2018, at 8:21 AM, Shaw, Carla <Shaw.Carla@epa.gov> wrote:

Just to have a record on why this was not completed by COB yesterday, I was unable to print to the color or black & printer yesterday. I have placed several calls to EZ Tech about the matter but they were not able to complete what they needed to by the end of the day. I will be placing another call this morning for the same ticket number to make sure the issue has been resolved.

From: Neugeboren, Steven
Sent: Monday, August 6, 2018 2:18 PM
To: Shaw, Carla <Shaw.Carla@epa.gov>
Subject: please print in color

Carla – can you please print this out in color by COB today.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Kupchan, Simma
Sent: Monday, August 6, 2018 2:03 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: Redwood City Saltworks EPA draft JD

David,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

any questions. Thank you.

Please let me know if you have

Simma Kupchan
EPA Office of General Counsel

Water Law Office
202-564-3105
WJC North #7426Q

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 9/7/2018 12:28:30 AM
To: Shaw, Carla [Shaw.Carla@epa.gov]
CC: Simma Kupchan [Kupchan.Simma@epa.gov]; Carrie Wehling [Wehling.Carrie@epa.gov]
Subject: FW: Briefing Matt tomorrow on Redwood City
Attachments: Exhibit 2 Map of Redwood City Salt Plant.PDF

Carla – can you please print out four color copies of this map tomorrow morning. Thanks.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Kupchan, Simma
Sent: Thursday, September 6, 2018 4:59 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: FW: Briefing Matt tomorrow on Redwood City

David,

R9 ORC will be joining tomorrow's call on Redwood City.

Deliberative Process / Ex. 5

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 9/4/2018 8:03:44 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
CC: Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: Redwood City

Carrie – simma and I spoke and I gave some minor comments and she will send to david today.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Kupchan, Simma
Sent: Tuesday, September 4, 2018 3:46 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Redwood City

Hi Steve,

Should I email the draft Redwood City document to David prior to our meeting tomorrow, or would you like to weigh in first? Please let me know how you would like to proceed. Thank you!

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGBO]
Sent: 7/31/2018 9:17:43 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: RE: Cargill pre-meeting

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

ED 002358 00034970-00001

To: Neugeboren, Steven; Kupchan, Simma

Subject: Cargill pre-meeting

When: Wednesday, August 01, 2018 1:30 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: Rm. 7519A

Hi Steve,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

On January 13, 2017, EPA signed the legal memo rebutting the Stockdale memorandum.

Simma

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/8/2018 10:16:43 PM
To: Busterud, Gretchen [Busterud.Gretchen@epa.gov]
Subject: RE: cargill

Can you look at calendars and send a 15 min invite for the two of us? thx

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Busterud, Gretchen
Sent: Wednesday, August 8, 2018 6:11 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: RE: cargill

Yes!

From: Neugeboren, Steven
Sent: Wednesday, August 8, 2018 2:58 PM
To: Busterud, Gretchen <Busterud.Gretchen@epa.gov>
Subject: cargill

Are you around tomorrow to chat. This issue is going to get teed up for the new leadership so want to start coordinating with the region.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 1/29/2019 2:47:25 AM
To: Fotouhi, David [fotouhi.david@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Carrie Wehling [Wehling.Carrie@epa.gov]
Subject: RE: Redwood City--deliberative/do not forward
Attachments: Final Working Draft JD_.docx

Adding Carrie. Looks like this is a clean draft. David – I'm assuming this reflects input from others, such as OW? If so, Simma, is it possible to generate a redline of changes from the last draft that we were working with? That would be helpful for me in seeing if I have any other input. Thanks.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Fotouhi, David
Sent: Monday, January 28, 2019 7:20 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: Redwood City--deliberative/do not forward

PRIVILEGED—DELIBERATIVE—DRAFT—DO NOT RELEASE

Please take a look at the attached revised draft and let me know if you have any further comments. Also, I think we need to **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5 ? Among the other edits I made, I have **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5 If possible, please let me know your thoughts by tomorrow COB. This draft is for your review and should not be forwarded. Thanks so much.

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/29/2018 7:11:11 PM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: Redwood City

thx

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

-----Original Message-----

From: Wehling, Carrie
Sent: Wednesday, August 29, 2018 2:39 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: FW: Redwood City

This is the latest I saw -- looks like Simma will be sending you a revised version this afternoon.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

-----Original Message-----

From: Kupchan, Simma
Sent: Tuesday, August 28, 2018 3:29 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>
Subject: RE: Redwood City

Attached is a revised draft of the document. I will send to Steve Neugeboren tomorrow afternoon, so please send any comments you would like to be included in his draft to me by 2:30 pm EST (11:30 Pacific). I apologize for the short turnaround. Any comments sent between now and the end of the week will be included in the draft we provide to David Fotouhi early next week.

Thanks for your assistance!

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

-----Original Message-----

From: Neugeboren, Steven
Sent: Tuesday, August 28, 2018 12:20 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>
Subject: RE: Redwood City

I'd like to get it by tomorrow if possible to leave plenty of time for review/revision for Matt. Complicated and holiday Monday.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

-----Original Message-----

From: Fotouhi, David
Sent: Tuesday, August 28, 2018 10:28 AM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>
Subject: RE: Redwood City

If possible, please aim to have this ready to brief Matt next Thursday or Friday (with a pre-meeting with me next Wednesday).

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

-----Original Message-----

From: Kupchan, Simma
Sent: Tuesday, August 28, 2018 10:25 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>
Subject: RE: Redwood City

Thanks, Steve. I sent it to R9 last week for Regional Counsel-level review, but Karyn and Brett responded with an additional round of feedback, so I believe Brett was waiting to send to Sylvia until I addressed their comments. I had told Brett I would send him a revised draft this morning for Sylvia to review, and once she has reviewed we will send it to you, Steve.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

-----Original Message-----

From: Neugeboren, Steven
Sent: Tuesday, August 28, 2018 9:11 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>
Subject: RE: Redwood City

My folks prepared a paper and I believe Sylvia is currently reviewing it and then it was going to come to me for review. Copying her here for confirmation and input on timing.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

-----Original Message-----

From: Fotouhi, David
Sent: Tuesday, August 28, 2018 9:08 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: Redwood City

Matt would like us to brief him on options. Could you please reach out to Carla to schedule a time? Are we close to having a paper prepared? Thanks.

Sent from my iPhone

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/29/2018 3:33:19 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: Redwood City JD Options

He was ok with moving it to the following week but that's good so we'll do Friday.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Kupchan, Simma
Sent: Wednesday, August 29, 2018 9:46 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Redwood City JD Options

Thanks very much, Steve. I appreciate your efforts to accommodate my schedule.

Personal Matters / Ex. 6

work that Friday anyway. I am comfortable with the timing, though if you would like to move for other reasons, feel free.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

From: Neugeboren, Steven
Sent: Wednesday, August 29, 2018 9:38 AM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Redwood City JD Options

I'm going to talk to david at my weekly about pushing this to following Monday if possible given simma's schedule, and wouldn't want it on Thursday in case need time for revisions after talking to david. Will let you know.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

-----Original Appointment-----

From: Veney, Carla **On Behalf Of** Leopold, Matt (OGC)
Sent: Wednesday, August 29, 2018 9:33 AM

To: Fotouhi, David; Neugeboren, Steven; Wehling, Carrie; Kupchan, Simma

Cc: Wendelowski, Karyn

Subject: Redwood City JD Options

When: Friday, September 7, 2018 2:15 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 4000

Appointment

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/29/2018 1:34:25 PM
To: Fotouhi, David [fotouhi.david@epa.gov]

Subject: Accepted: Redwood City JD Options - Dial-in #: Conference Line/Code / Ex. 6
Location: 4407a

Start: 9/5/2018 3:30:00 PM
End: 9/5/2018 4:00:00 PM
Show Time As: Busy

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/6/2018 6:18:00 PM
To: Shaw, Carla [Shaw.Carla@epa.gov]
Subject: please print in color
Attachments: Working Draft JD (R9 Nov 21 2016).docx

Carla – can you please print this out in color by COB today.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Kupchan, Simma
Sent: Monday, August 6, 2018 2:03 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: Redwood City Saltworks EPA draft JD

David,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

please let me know if you have any questions. Thank you.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/8/2018 2:10:50 AM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]
Subject: RE: ACOE District Draft Legal Opinion for Cargill Redwood City Saltworks

Let's bring a copy of that for david tomorrow. Another datapoint in a complex graph.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

-----Original Message-----

From: Kupchan, Simma
Sent: Tuesday, August 7, 2018 2:00 PM
To: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: FW: ACOE District Draft Legal Opinion for Cargill Redwood City Saltworks

FYI - to follow up on our earlier conversation, attached is the Corps district opinion that finds

Deliberative Process / attorney work product Ex. 5

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

-----Original Message-----

From: Wendelowski, Karyn
Sent: Tuesday, November 03, 2015 1:20 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: FW: ACOE District Draft Legal Opinion for Cargill Redwood City Saltworks

Karyn Wendelowski
Attorney-Advisor
Water Law Office
Office of General Counsel
(202)564-5493

-----Original Message-----

From: Wendelowski, Karyn
Sent: Thursday, January 22, 2015 9:29 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: ACOE District Draft Legal Opinion for Cargill Redwood City Saltworks

Karyn Wendelowski
Attorney-Advisor
Water Law Office
Office of General Counsel
(202)564-5493

-----Original Message-----

From: Kermish, Laurie
Sent: Thursday, May 29, 2014 2:36 PM
To: Neugeboren, Steven; Srinivasan, Gautam; Wendelowski, Karyn
Cc: Quast, Sylvia; Campbell, Rich
Subject: ACOE District Draft Legal Opinion for Cargill Redwood City Saltworks

Here is the draft that was shared with Region 9 back in September 2013.

Laurie Kermish

CWA Section Chief
Office of Regional Counsel (ORC-2)
U.S. EPA, Region 9
75 Hawthorne St.
San Francisco, CA 94105
(415) 972-3917
(415) 947-3570 (fax)
kermish.laurie@epa.gov

-----Original Message-----

From: Campbell, Rich
Sent: Thursday, May 29, 2014 9:56 AM
To: Kermish, Laurie
Subject: FW: ACOE Saltworks Legal Opinion for Review and Comment

Looking back, I'd already provided this to Karyn.

-----Original Message-----

From: Campbell, Rich
Sent: Tuesday, September 24, 2013 7:23 AM
To: Wendelowski, Karyn
Cc: Kermish, Laurie; Kao, Jessica
Subject: FW: ACOE Saltworks Legal Opinion for Review and Comment

PRIVILEGED/PRE-DECISIONAL/INTRA- AND INTER-AGENCY DELIBERATIVE/ATTORNEY WORK PRODUCT DO NOT RELEASE UNDER FOIA

Karyn,

I thought you might be interested in seeing the Corps' draft legal opinion on a JD analysis conducted by the applicant for a 404 permit for the proposed Saltworks master-planned community. The proposed Saltworks development would impact 1,365 acres of WUS in the Redwood City Salt Pond Complex located in the San Francisco Bay.

I received the legal opinion yesterday afternoon after speaking with Jack Kearns, ACOE SF District

Deliberative Process / attorney work product Ex. 5

Please let me know if you have any thoughts on the opinion. I may contact you with some questions once I review it if you don't mind...

Thanks!

Rich

Rich Campbell
Attorney-Advisor
US Environmental Protection Agency - Region 9 Office of Regional Counsel
75 Hawthorne Street (ORC-2)
San Francisco, CA 94105
Phone: 415.972.3870
Fax: 415.947.3570
Email: campbell.rich@epa.gov

Notice: This message may contain privileged or other confidential information. If you are not the intended recipient, or believe that you have received this communication in error, please delete the copy you received and do not print, copy, retransmit, disseminate, or otherwise use the information.

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 12/10/2018 2:11:21 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]
Subject: Cargill Draft JD

We need to reschedule please as Karyn Carrie and I need to travel to doj for a 3:00 meeting. Thanks.

Cargill Draft JD

Scheduled: Monday, Dec 10, 2018 from 2:30 PM to 3:00 PM

Location: 7519A 302 12th St NW Washington DC 20004 United States

Invitees: Kupchan, Simma, Wehling, Carrie, Wendelowski, Karyn

Sent from my iPhone

Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/2/2018 1:33:41 PM
To: Mills, Derek [Mills.Derek@epa.gov]
CC: Kupchan, Simma [Kupchan.Simma@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: Garbow memo responding to Stockdale memo

Thanks Derek.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Mills, Derek
Sent: Thursday, August 2, 2018 8:58 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Re: Garbow memo responding to Stockdale memo

Deliberative Process / Ex. 5

- Derek

Sent from my iPhone

On Aug 2, 2018, at 8:24 AM, Neugeboren, Steven <Neugeboren.Steven@epa.gov> wrote:

FYI.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

Begin forwarded message:

From: "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>
Date: August 2, 2018 at 8:04:43 AM EDT
To: "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>
Cc: "Fotouhi, David" <Fotouhi.David@epa.gov>, "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Subject: Re: Garbow memo responding to Stockdale memo

No problem. Thanks for bringing it to our attention. As far as I understand there was not **Deliberative Process / Ex. 5** is that correct?

Sent from my iPhone

On Aug 1, 2018, at 8:22 PM, Neugeboren, Steven
<Neugeboren.Steven@epa.gov> wrote:

I'm sorry Matt it wasn't. It completely escaped my mind when we went through that process. I apologize.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

On Aug 1, 2018, at 8:08 PM, Leopold, Matt (OGC)
<Leopold.Matt@epa.gov> wrote:

Steve,

Was this one collected in the GC memo review project? Thanks

Sent from my iPhone

Begin forwarded message:

From: "Fotouhi, David"
<Fotouhi.David@epa.gov<<mailto:Fotouhi.David@epa.gov>>>
>>
To: "Leopold, Matt (OGC)"
<Leopold.Matt@epa.gov<<mailto:Leopold.Matt@epa.gov>>>, "Ross, David P"
<ross.davidp@epa.gov<<mailto:ross.davidp@epa.gov>>>, "Forsgren, Lee"
<Forsgren.Lee@epa.gov<<mailto:Forsgren.Lee@epa.gov>>>
>>
Subject: Garbow memo responding to Stockdale memo

PRIVILEGED—DELIBERATIVE—DO NOT RELEASE

FYI, I wanted to make you aware of

Deliberative Process / attorney work product Ex. 5

Deliberative Process / attorney work product Ex. 5

Deliberative Process / attorney work product Ex. 5 Both memos
are attached; happy to discuss further.

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov<<mailto:fotouhi.david@epa.gov>>
>

<rebuttall to stockdale memo2017-01-13.pdf>

<Earl Stockdale memo Redwood City.pdf>

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/2/2018 12:24:18 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Mills, Derek [Mills.Derek@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: Fwd: Garbow memo responding to Stockdale memo

FYI.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

Begin forwarded message:

From: "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>
Date: August 2, 2018 at 8:04:43 AM EDT
To: "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>
Cc: "Fotouhi, David" <Fotouhi.David@epa.gov>, "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Subject: Re: Garbow memo responding to Stockdale memo

No problem. Thanks for bringing it to our attention. As far as I understand there was not previously **Deliberative Process / Ex. 5** is that correct?

Sent from my iPhone

On Aug 1, 2018, at 8:22 PM, Neugeboren, Steven
<Neugeboren.Steven@epa.gov> wrote:

I'm sorry Matt it wasn't. It completely escaped my mind when we went through that process. I apologize.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

On Aug 1, 2018, at 8:08 PM, Leopold, Matt (OGC)
<Leopold.Matt@epa.gov> wrote:

Steve,

Was this one collected in the GC memo review project? Thanks

Sent from my iPhone

Begin forwarded message:

From: "Fotouhi, David"
<Fotouhi.David@epa.gov<<mailto:Fotouhi.David@epa.gov>>>
To: "Leopold, Matt (OGC)"
<Leopold.Matt@epa.gov<<mailto:Leopold.Matt@epa.gov>>>, "Ross, David P"
<ross.davidp@epa.gov<<mailto:ross.davidp@epa.gov>>>, "Forsgren, Lee"
<Forsgren.Lee@epa.gov<<mailto:Forsgren.Lee@epa.gov>>>
Subject: Garbow memo responding to Stockdale memo

PRIVILEGED—DELIBERATIVE—DO NOT RELEASE

FYI, I wanted to make you aware of **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Both memos

are attached, happy to discuss further.

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov<<mailto:fotouhi.david@epa.gov>>

<rebuttal to stockdale memo2017-01-13.pdf>

<Earl Stockdale memo Redwood City.pdf>

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/2/2018 1:24:08 AM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Mills, Derek [Mills.Derek@epa.gov]
Subject: Fwd: Garbow memo responding to Stockdale memo

Simma and Derek - please see below. I'm right that we didn't list that right?

Sent from my iPhone

Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

Begin forwarded message:

From: "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>
Date: August 1, 2018 at 9:22:50 PM EDT
To: "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>
Cc: "Fotouhi, David" <Fotouhi.David@epa.gov>, "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Subject: Re: Garbow memo responding to Stockdale memo

I'm sorry Matt it wasn't. It completely escaped my mind when we went through that process. I apologize.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

On Aug 1, 2018, at 8:08 PM, Leopold, Matt (OGC) <Leopold.Matt@epa.gov> wrote:

Steve,

Was this one collected in the GC memo review project? Thanks

Sent from my iPhone

Begin forwarded message:

From: "Fotouhi, David"

<Fotouhi.David@epa.gov<mailto:Fotouhi.David@epa.gov>>

To: "Leopold, Matt (OGC)"

<Leopold.Matt@epa.gov<mailto:Leopold.Matt@epa.gov>>, "Ross, David P"

<ross.davidp@epa.gov<mailto:ross.davidp@epa.gov>>, "Forsgren, Lee"

<Forsgren.Lee@epa.gov<mailto:Forsgren.Lee@epa.gov>>

Subject: Garbow memo responding to Stockdale memo

PRIVILEGED—DELIBERATIVE—DO NOT RELEASE

FYI, I wanted to make you aware of

Deliberative Process / attorney work product Ex. 5

Deliberative Process / attorney work product Ex. 5

Deliberative Process / attorney work product Ex. 5

Deliberative Process / attorney work product Ex. 5

Both memos are attached; happy to discuss further.

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov<mailto:fotouhi.david@epa.gov>

<rebuttal to stockdale memo2017-01-13.pdf>

<Earl Stockdale memo Redwood City.pdf>

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 2/23/2017 10:32:13 PM
To: Quast, Sylvia [Quast.Sylvia@epa.gov]
Subject: RE: Saltworks

thanks

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Quast, Sylvia
Sent: Thursday, February 23, 2017 3:37 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: FW: Saltworks

From: Kao, Jessica
Sent: Thursday, February 23, 2017 10:22 AM
To: Torres, Tomas <Torres.Tomas@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>
Cc: Brush, Jason <Brush.Jason@epa.gov>; Leidy, Robert <Leidy.Robert@epa.gov>; Kermish, Laurie <Kermish.Laurie@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>; Campbell, Rich <Campbell.Rich@epa.gov>; Siu, Jennifer <Siu.Jennifer@epa.gov>
Subject: FW: Saltworks

From: Eneas Kane [mailto:EKane@dmbpv.com]
Sent: Wednesday, February 22, 2017 3:06 PM
To: Kao, Jessica <Kao.Jessica@epa.gov>
Cc: rmartella@sidley.com; David Smith <dsmith@sticeblock.com>
Subject:

Dear Ms. Kao,

We wanted to reach out and let you know that our consideration of the site and potential future uses continues, as noted below. We appreciate EPA's patience as we evaluate proposals for the future. The exchange below referenced a six-month pause on the request for a JD for the site. We feel we are making real progress toward a new proposal for all stakeholders' consideration, but the efforts are taking longer than we had hoped. Accordingly, we would like to request an additional six months for the pause as we continue our ongoing evaluation and consideration of alternatives.

Please let us know if you have any questions regarding this matter.

Sincerely,

Eneas Kane

From: Eneas Kane
Sent: Monday, September 19, 2016 9:59 AM
To: Kao, Jessica
Cc: rmartella@sidley.com; David Smith
Subject:

Dear Ms. Kao,

That is correct. As we continue to evaluate the site, and as indicated below, we are requesting a pause for a six month period, while fully preserving and reserving our legal objections. As my original email indicates, this is intended to realize only a temporary tolling of our respective efforts while preserving the status quo.

Eneas Kane

From: Kao, Jessica [<mailto:Kao.Jessica@epa.gov>]
Sent: Tuesday, September 13, 2016 6:24 PM
To: Eneas Kane
Cc: rmartella@sidley.com; David Smith
Subject: RE:

Dear Mr. Kane,

Thank you for the email notice. For clarification, I understand that the requested pause refers specifically to Saltworks' request for a Clean Water Act jurisdictional determination of its Redwood City site that is the subject of the referenced EPA special case.

Jessica Kao

Chief of Staff, Office of the Regional Administrator
USEPA, Pacific Southwest Region (Arizona, California, Hawaii, Nevada, Pacific Islands & 148 Tribes)
75 Hawthorne Street
San Francisco, CA 94105
415-972-3922

From: Eneas Kane [<mailto:EKane@dmbpv.com>]
Sent: Tuesday, September 13, 2016 1:50 PM
To: Kao, Jessica <Kao.Jessica@epa.gov>
Cc: rmartella@sidley.com; David Smith <dsmith@sticeblock.com>
Subject:

Dear Ms. Kao,

On March 18, 2015, Ken Kopocis, then Deputy Assistant Administrator of Water for EPA, informed the Corps of Engineers that EPA headquarters was granting EPA Region IX's request to place the Redwood City Saltworks on its "special case" list. Mr. Kopocis further said that this action had the effect of divesting the Corps of the authority to issue a jurisdictional determination for the site and vested such authority in EPA. It is our understanding that since that time, EPA headquarters has delegated significant responsibility for preparation of the jurisdictional determination to Region IX and that Region IX has been working and continues to work on that task. As you are aware, Saltworks respectfully believes that EPA's actions are contrary to applicable law.

At this time, as we continue to evaluate the site, we are requesting a pause of Saltworks' request for a six month period, while fully preserving and reserving our legal objections. To be clear, this is intended to realize only a temporary tolling of our respective efforts while preserving the status quo. We also will reach out in the event we believe action is warranted sooner.

We appreciate your consideration of this request. Should you have any questions, please feel free to contact me.

Encas Kane

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 1/11/2017 10:41:30 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: USE THIS VERSION OF CARGILL REBUTTAL MEMO

Thanks. Will look at this evening.

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Kupchan, Simma
Sent: Wednesday, January 11, 2017 5:27 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: USE THIS VERSION OF CARGILL REBUTTAL MEMO

Steve and Carrie,

Please use this revised version if you haven't already reviewed R9's edits to the Cargill memo. The only change from the

Deliberative Process / Ex. 5

I pasted

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/1/2018 9:06:34 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: RE: More materials for Cargill meeting tomorrow

Thanks!

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Kupchan, Simma
Sent: Wednesday, August 1, 2018 4:55 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: More materials for Cargill meeting tomorrow

Hi Steve,

Deliberative Process / Ex. 5

to help guide our discussion; it is not intended as a draft paper for David, as I recognize we may want to take a different approach to that meeting.

Please let me know if you have any questions before we meet tomorrow. Thanks for your attention.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/7/2018 1:21:43 PM
To: Schroer, Lee [schroer.lee@epa.gov]
Subject: FW: Redwood City Saltworks EPA draft JD
Attachments: Working Draft JD (R9 Nov 21 2016).docx

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Kupchan, Simma
Sent: Monday, August 6, 2018 2:03 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: Redwood City Saltworks EPA draft JD

David,

Attached is the

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Please let me know if you have any questions. Thank you.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 12/12/2016 8:22:59 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
CC: Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: Cargill memo

thanks

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Kupchan, Simma
Sent: Monday, December 12, 2016 2:17 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Cargill memo

FYI – Carla said she would make clear to Avi that

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

-----Original Appointment-----

From: Garbow, Avi
Sent: Friday, December 09, 2016 2:37 PM
To: Garbow, Avi; Neugeboren, Steven; Wehling, Carrie; Kupchan, Simma
Subject: Cargill memo
When: Wednesday, December 14, 2016 12:30 PM-1:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 4000

Appointment

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 1/11/2017 2:25:02 PM
To: Karyn Wendelowski [wendelowski.karyn@epa.gov]; Simma Kupchan [Kupchan.Simma@epa.gov]; Carrie Wehling [Wehling.Carrie@epa.gov]; Mitchell, Stacey [Mitchell.Stacey@epa.gov]
Subject: cargill
Location: Stacey's Office
Start: 1/11/2017 3:00:00 PM
End: 1/11/2017 3:30:00 PM
Show Time As: Tentative

Message

From: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Sent: 1/11/2017 2:11:15 AM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]
Subject: Cargill info

At the party I learned that Stacey is no longer recused. I brought her up to speed and we will include her in our 1130. So we will meet in her office.

Deliberative Process / Ex. 5

Sent from my iPhone

Steven Neugeboren
Associate General Counsel
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC. 20460
202-564-5488

Appointment

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 1/10/2017 7:52:45 PM
To: Karyn Wendelowski [wendelowski.karyn@epa.gov]; Simma Kupchan [Kupchan.Simma@epa.gov]; Carrie Wehling [Wehling.Carrie@epa.gov]
Subject: cargill
Start: 1/11/2017 4:30:00 PM
End: 1/11/2017 5:00:00 PM
Show Time As: Tentative

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 8/1/2018 5:01:21 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: Re: Accepted: Cargill pre-meeting

Can you pls send David Avis memo. Thanks.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

> On Aug 1, 2018, at 11:45 AM, Kupchan, Simma <Kupchan.Simma@epa.gov> wrote:
>
> <meeting.ics>

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 11/28/2016 10:32:01 PM
To: Avi Garbow [Garbow.Avi@epa.gov]
CC: Simma Kupchan [Kupchan.Simma@epa.gov]; Carrie Wehling [Wehling.Carrie@epa.gov]
Subject: cargill memo
Attachments: Cover memo for Legal Principles Memo v3.docx; Cargill Draft Corps Rebuttal Points OWOW Reviewed 10 26 16.docx

Avi - as discussed last week, attached is a legal memo that we have prepared, working with OW, that would

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Interested in how your call with Alexis went. You could reply or call me.

Thanks.

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

-----Original Message-----

From: Goodin, John
Sent: Wednesday, November 23, 2016 3:24 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: FW: Cover memo for Legal Principles Memo

As discussed, attached is the draft cover memo (plus the detailed document)

-----Original Message-----

From: Goodin, John
Sent: Thursday, November 10, 2016 2:24 PM
To: Gregory Peck <Peck.Gregory@epa.gov>; Benita Best-Wong <Best-Wong.Benita@epa.gov>
Subject: Cover memo for Legal Principles Memo

Message

From: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Sent: 1/13/2017 3:36:00 PM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]
CC: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: Re: R9's new edits to Cargill Memo

I'm out but checking occasionally. I think you should follow up with Stacey. Call me if you need my attention quickly.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC. 20460
202-564-5488

On Jan 13, 2017, at 9:28 AM, Wehling, Carrie <Wehling.Carrie@epa.gov> wrote:

Just trying to figure out where this stands and how I can help.
Are you both out today, and if so, do you need me to make these changes?
I didn't see anything from Stacey – should we still put the final versions in CTS today? Or should I followup with her?

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Neugeboren, Steven
Sent: Thursday, January 12, 2017 11:28 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: R9's new edits to Cargill Memo

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks.

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Kupchan, Simma
Sent: Thursday, January 12, 2017 10:44 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: R9's new edits to Cargill Memo
Importance: High

Deliberative Process / Ex. 5

Let me know what you think.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Moffatt, Brett
Sent: Thursday, January 12, 2017 6:25 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Kao, Jessica <Kao.Jessica@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Cover note and latest draft of Cargill memo

Simma,

Thank you for working through all of the comments and edits. Following on the decision to

Deliberative Process / attorney work product Ex. 5

Deliberative Process / attorney work product Ex. 5

I am copying Steve and Carrie because of the time constraints. Please respond to me, and to Jessica, if you have questions or comments.

Brett

Brett Moffatt
US EPA, Region 9, ORC
(415) 972-3946

From: Kupchan, Simma
Sent: Thursday, January 12, 2017 1:24 PM
To: Moffatt, Brett <Moffatt.Brett@epa.gov>
Subject: FW: Cover note and latest draft of Cargill memo

Brett, thanks very much for your comments on this document. FYI, attached are the latest versions of the memo and cover note, which we have sent to our front office.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Kupchan, Simma
Sent: Thursday, January 12, 2017 4:22 PM
To: Mitchell, Stacey <Mitchell.Stacey@epa.gov>
Cc: Steven Neugeboren <Neugeboren.Steven@epa.gov>; Carrie Wehling <Wehling.Carrie@epa.gov>
Subject: Cover note and latest draft of Cargill memo

Hi Stacey,

Attached is the revised draft of the Cargill cover note that Deliberative Process / attorney work product Ex. 5 Deliberative Process / attorney work product Ex. 5 for your convenience. I am also sending to R9 as an FYI.

Please let us know if you have any comments or questions. As soon as we hear back from you, I will put it into CTS for Avi's signature. **The goal is for Avi to sign the cover note tomorrow.**

Thank you for your attention to this!

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Kupchan, Simma
Sent: Thursday, January 12, 2017 1:10 PM
To: Mitchell, Stacey <Mitchell.Stacey@epa.gov>; Steven Neugeboren <Neugeboren.Steven@epa.gov>; Carrie Wehling <Wehling.Carrie@epa.gov>
Subject: Latest draft of Cargill Memo

Stacey,

Attached is the revised draft of the Cargill memo, incorporating Region 9's and WLO's comments. Please let me know if you have any comments. Thank you.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 11/21/2016 5:27:23 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: Cargill

I want to look at/touch base today before Carrie leaves for the week. Can you give her a call to see if she can send it now? Thanks.

From: Kupchan, Simma
Sent: Monday, November 21, 2016 12:25 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Cargill

Great. I will give Laurie a call if we don't hear back from her by tomorrow morning, and will send along any comments asap. I am in through Weds. Let me know if there is anything else I can do.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Neugeboren, Steven
Sent: Monday, November 21, 2016 12:24 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: FW: Cargill

Deliberative Process / Ex. 5

Thanks.

From: Wehling, Carrie
Sent: Friday, November 18, 2016 7:38 AM
To: Kermish, Laurie <Kermish.Laurie@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: FW: Cargill

Hey, Laurie – is there a draft JD? Folks here interested in seeing it.
Thanks.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492

wehling.carrie@epa.gov

From: Neugeboren, Steven
Sent: Thursday, November 17, 2016 7:57 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Fwd: Cargill

So you guys have the draft. Could you send it to me/ask the region for it? Interested on your opinions. Perhaps makes sense to set up time to discuss it early next week. Thanks.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC. 20460
202-564-5488

Begin forwarded message:

From: "Garbow, Avi" <Garbow.Avi@epa.gov>
Date: November 17, 2016 at 7:24:31 PM EST
To: "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>
Subject: RE: Cargill

Deliberative Process / Ex. 5

avi

Avi Garbow
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Neugeboren, Steven
Sent: Thursday, November 17, 2016 5:46 PM
To: Beauvais, Joel <Beauvais.Joel@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Goodin, John <Goodin.John@epa.gov>
Subject: FW: Cargill

Joel and Avi —

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

can be reached at 564-5488 if you'd like to discuss. Thanks.

From: Mitchell, Stacey
Sent: Thursday, November 17, 2016 5:36 PM

ED_002358_00035111-00002

To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>
Subject: Cargill

All –

Per my discussion just now with Steve, I cannot be engaged on issues related to Cargill and am referring him to you, Avi.

I am forwarding the last piece of information I had.

Best,

Stacey

Stacey H. Mitchell
Deputy General Counsel
U.S. Environmental Protection Agency
(202) 564-7614

From: Beauvais, Joel
Sent: Tuesday, October 04, 2016 2:57 PM
To: Mitchell, Stacey <Mitchell.Stacey@epa.gov>
Subject: FW: FW:

From: Best-Wong, Benita
Sent: Monday, September 26, 2016 12:11 PM
To: Beauvais, Joel <Beauvais.Joel@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: Fwd: FW:

Hi Joel,
Greg may have shared this with you already so I apologize for the double posting. Cargill has requested a six month pause on their JD request. See email chain below.
Benita

Sent from my iPhone

Begin forwarded message:

From: "Kao, Jessica" <Kao.Jessica@epa.gov>
Date: September 22, 2016 at 8:33:51 PM CDT
To: "Torres, Tomas" <Torres.Tomas@epa.gov>, "Brush, Jason" <Brush.Jason@epa.gov>, "Leidy, Robert" <Leidy.Robert@epa.gov>, "Kermish, Laurie" <Kermish.Laurie@epa.gov>, "Moffatt, Brett" <Moffatt.Brett@epa.gov>, "Campbell, Rich" <Campbell.Rich@epa.gov>
Cc: "Quast, Sylvia" <Quast.Sylvia@epa.gov>, "Best-Wong, Benita" <Best-Wong.Benita@epa.gov>
Subject: FW:

All,

FYI. Mr. Kane manages DMB Pacific Ventures.

Jessica Kao

Chief of Staff, Office of the Regional Administrator
USEPA, Pacific Southwest Region (Arizona, California, Hawaii, Nevada, Pacific Islands & 148 Tribes)
75 Hawthorne Street
San Francisco, CA 94105
415-972-3922

From: Eneas Kane [<mailto:EKane@dmbspv.com>]
Sent: Monday, September 19, 2016 9:59 AM
To: Kao, Jessica <Kao.Jessica@epa.gov>
Cc: rmartella@sidley.com; David Smith <dsmith@sticeblock.com>
Subject:

Dear Ms. Kao,

That is correct. As we continue to evaluate the site, and as indicated below, we are requesting a pause for a six month period, while fully preserving and reserving our legal objections. As my original email indicates, this is intended to realize only a temporary tolling of our respective efforts while preserving the status quo.

Eneas Kane

From: Kao, Jessica [<mailto:Kao.Jessica@epa.gov>]
Sent: Tuesday, September 13, 2016 6:24 PM
To: Eneas Kane
Cc: rmartella@sidley.com; David Smith
Subject: RE:

Dear Mr. Kane,

Thank you for the email notice. For clarification, I understand that the requested pause refers specifically to Saltworks' request for a Clean Water Act jurisdictional determination of its Redwood City site that is the subject of the referenced EPA special case.

Jessica Kao

Chief of Staff, Office of the Regional Administrator
USEPA, Pacific Southwest Region (Arizona, California, Hawaii, Nevada, Pacific Islands & 148 Tribes)
75 Hawthorne Street
San Francisco, CA 94105
415-972-3922

From: Eneas Kane [<mailto:EKane@dmbspv.com>]
Sent: Tuesday, September 13, 2016 1:50 PM
To: Kao, Jessica <Kao.Jessica@epa.gov>
Cc: rmartella@sidley.com; David Smith <dsmith@sticeblock.com>
Subject:

Dear Ms. Kao,

On March 18, 2015, Ken Kopocis, then Deputy Assistant Administrator of Water for EPA, informed the Corps of Engineers that EPA headquarters was granting EPA Region IX's request to place the Redwood City Saltworks on its "special case" list. Mr. Kopocis further said that this action had the effect of divesting the Corps of the authority to issue a jurisdictional determination for the site and vested such authority in EPA. It is our understanding that since that time, EPA headquarters has delegated significant responsibility for preparation of the jurisdictional determination to Region IX and that Region IX has been working and continues to work on that task. As you are aware, Saltworks respectfully believes that EPA's actions are contrary to applicable law.

At this time, as we continue to evaluate the site, we are requesting a pause of Saltworks' request for a six month period, while fully preserving and reserving our legal objections. To be clear, this is intended to realize only a temporary tolling of our respective efforts while preserving the status quo. We also will reach out in the event we believe action is warranted sooner.

We appreciate your consideration of this request. Should you have any questions, please feel free to contact me.

Eneas Kane

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 11/21/2016 5:22:46 PM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]; Kermish, Laurie [Kermish.Laurie@epa.gov]
CC: Kupchan, Simma [Kupchan.Simma@epa.gov]; Quast, Sylvia [Quast.Sylvia@epa.gov]
Subject: RE: Cargill

Deliberative Process / Ex. 5

From: Wehling, Carrie
Sent: Friday, November 18, 2016 7:38 AM
To: Kermish, Laurie <Kermish.Laurie@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: FW: Cargill

Hey, Laurie – is there a draft JD? Folks here interested in seeing it.
Thanks.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Neugeboren, Steven
Sent: Thursday, November 17, 2016 7:57 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Fwd: Cargill

So you guys have the draft. Could you send it to me/ask the region for it? Interested on your opinions. Perhaps makes sense to set up time to discuss it early next week. Thanks.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC. 20460
202-564-5488

Begin forwarded message:

From: "Garbow, Avi" <Garbow.Avi@epa.gov>
Date: November 17, 2016 at 7:24:31 PM EST

To: "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>

Subject: RE: Cargill

Deliberative Process / Ex. 5

avi

Avi Garbow
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Neugeboren, Steven

Sent: Thursday, November 17, 2016 5:46 PM

To: Beauvais, Joel <Beauvais.Joel@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>

Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Goodin, John <Goodin.John@epa.gov>

Subject: FW: Cargill

Joel and Avi – I was informed by Sylvia Quast that the region is preparing to **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5 I don't know their exact timing but I wanted to bring this information to your attention. I can be reached at 564-5488 if you'd like to discuss. Thanks.

From: Mitchell, Stacey

Sent: Thursday, November 17, 2016 5:36 PM

To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>

Subject: Cargill

All –

Per my discussion just now with Steve, I cannot be engaged on issues related to Cargill and am referring him to you, Avi.

I am forwarding the last piece of information I had.

Best,

Stacey

Stacey H. Mitchell
Deputy General Counsel
U.S. Environmental Protection Agency
(202) 564-7614

From: Beauvais, Joel

Sent: Tuesday, October 04, 2016 2:57 PM

To: Mitchell, Stacey <Mitchell.Stacey@epa.gov>

Subject: FW: FW:

From: Best-Wong, Benita
Sent: Monday, September 26, 2016 12:11 PM
To: Beauvais, Joel <Beauvais.Joel@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: Fwd: FW:

Hi Joel,
Greg may have shared this with you already so I apologize for the double posting. Cargill has requested a six month pause on their JD request. See email chain below.
Benita

Sent from my iPhone

Begin forwarded message:

From: "Kao, Jessica" <Kao.Jessica@epa.gov>
Date: September 22, 2016 at 8:33:51 PM CDT
To: "Torres, Tomas" <Torres.Tomas@epa.gov>, "Brush, Jason" <Brush.Jason@epa.gov>, "Leidy, Robert" <Leidy.Robert@epa.gov>, "Kermish, Laurie" <Kermish.Laurie@epa.gov>, "Moffatt, Brett" <Moffatt.Brett@epa.gov>, "Campbell, Rich" <Campbell.Rich@epa.gov>
Cc: "Quast, Sylvia" <Quast.Sylvia@epa.gov>, "Best-Wong, Benita" <Best-Wong.Benita@epa.gov>
Subject: FW:

All,

FYI. Mr. Kane manages DMB Pacific Ventures.

Jessica Kao

Chief of Staff, Office of the Regional Administrator
USEPA, Pacific Southwest Region (Arizona, California, Hawaii, Nevada, Pacific Islands & 148 Tribes)
75 Hawthorne Street
San Francisco, CA 94105
415-972-3922

From: Eneas Kane [<mailto:EKane@dmbspv.com>]
Sent: Monday, September 19, 2016 9:59 AM
To: Kao, Jessica <Kao.Jessica@epa.gov>
Cc: rmartella@sidley.com; David Smith <dsmith@sticeblock.com>
Subject:

Dear Ms. Kao,

That is correct. As we continue to evaluate the site, and as indicated below, we are requesting a pause for a six month period, while fully preserving and reserving our legal objections. As my original email indicates, this is intended to realize only a temporary tolling of our respective efforts while preserving the status quo.

Eneas Kane

From: Kao, Jessica [<mailto:Kao.Jessica@epa.gov>]
Sent: Tuesday, September 13, 2016 6:24 PM
To: Eneas Kane
Cc: rmartella@sidley.com; David Smith
Subject: RE:

Dear Mr. Kane,

Thank you for the email notice. For clarification, I understand that the requested pause refers specifically to Saltworks' request for a Clean Water Act jurisdictional determination of its Redwood City site that is the subject of the referenced EPA special case.

Jessica Kao

Chief of Staff, Office of the Regional Administrator
USEPA, Pacific Southwest Region (Arizona, California, Hawaii, Nevada, Pacific Islands & 148 Tribes)
75 Hawthorne Street
San Francisco, CA 94105
415-972-3922

From: Eneas Kane [<mailto:EKane@dmbpv.com>]
Sent: Tuesday, September 13, 2016 1:50 PM
To: Kao, Jessica <Kao.Jessica@epa.gov>
Cc: rmartella@sidley.com; David Smith <dsmith@sticeblock.com>
Subject:

Dear Ms. Kao,

On March 18, 2015, Ken Kopocis, then Deputy Assistant Administrator of Water for EPA, informed the Corps of Engineers that EPA headquarters was granting EPA Region IX's request to place the Redwood City Saltworks on its "special case" list. Mr. Kopocis further said that this action had the effect of divesting the Corps of the authority to issue a jurisdictional determination for the site and vested such authority in EPA. It is our understanding that since that time, EPA headquarters has delegated significant responsibility for preparation of the jurisdictional determination to Region IX and that Region IX has been working and continues to work on that task. As you are aware, Saltworks respectfully believes that EPA's actions are contrary to applicable law.

At this time, as we continue to evaluate the site, we are requesting a pause of Saltworks' request for a six month period, while fully preserving and reserving our legal objections. To be clear, this is intended to realize only a temporary tolling of our respective efforts while preserving the status quo. We also will reach out in the event we believe action is warranted sooner.

We appreciate your consideration of this request. Should you have any questions, please feel free to contact me.

Eneas Kane

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 1/12/2017 11:10:29 PM
To: Goodin, John [Goodin.John@epa.gov]; Peck, Gregory [Peck.Gregory@epa.gov]
CC: Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]; Downing, Donna [Downing.Donna@epa.gov]; Carrie Wehling [Wehling.Carrie@epa.gov]; Simma Kupchan [Kupchan.Simma@epa.gov]
Subject: RE: Talking points on Cargill

Please include carrie and simma on all emails. With everything going on my email coverage is a little sporadic

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Goodin, John
Sent: Thursday, January 12, 2017 3:36 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: Re: Talking points on Cargill

Greg-

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks
John

Sent from my iPhone

On Jan 12, 2017, at 2:49 PM, Peck, Gregory <Peck.Gregory@epa.gov> wrote:

Some thoughts on Mike's transmittal memo.

Deliberative Process / Ex. 5

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Eisenberg, Mindy
Sent: Thursday, January 12, 2017 2:26 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>
Subject: RE: Talking points on Cargill

Greg,
Thinking that we want to keep the transmittal short, here is draft text:

Deliberative Process / Ex. 5

Mindy Eisenberg
Associate Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Peck, Gregory
Sent: Thursday, January 12, 2017 1:03 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>
Subject: RE: Talking points on Cargill

Yes. I understand OGC is tweeking

Deliberative Process / Ex. 5



Lets work together to prepare

Deliberative Process / Ex. 5

Sound good? Like to sign by tomorrow.

Gregory E. Peck

Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Eisenberg, Mindy
Sent: Thursday, January 12, 2017 12:46 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>
Subject: RE: Talking points on Cargill

Thanks Greg. Still moving forward with the memo?

Mindy Eisenberg
Associate Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Peck, Gregory
Sent: Thursday, January 12, 2017 12:45 PM
To: Downing, Donna <Downing.Donna@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: RE: Talking points on Cargill

Deliberative Process / Ex. 5

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Downing, Donna
Sent: Thursday, January 12, 2017 12:31 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: RE: Talking points on Cargill

Greg and/or Mindy (after another look following the retirement party)–

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5	The last bullet still seems	Deliberative Process / Ex. 5
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Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Would you like some redline/strikeout suggestions, or have the TPs evolved such that editing suggestions wouldn't be helpful?

I have a 1pm with the Regions but am otherwise around.

Donna

From: Downing, Donna

Sent: Thursday, January 12, 2017 10:22 AM

To: Peck, Gregory <Peck.Gregory@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>

Subject: RE: Talking points on Cargill

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 I have more to say but am running off to belatedly stick my head into Joel and Ellen's retirement party. Happy to discuss.

Donna

From: Peck, Gregory

Sent: Thursday, January 12, 2017 10:14 AM

To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>

Cc: Downing, Donna <Downing.Donna@epa.gov>

Subject: RE: Talking points on Cargill

Deliberative Process / Ex. 5

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Eisenberg, Mindy

Sent: Thursday, January 12, 2017 9:21 AM

To: Peck, Gregory <Peck.Gregory@epa.gov>

Subject: RE: Talking points on Cargill

John is fine but I'm waiting on Donna who is in a meeting at the moment. I will ask her to get back to you shortly.

Mindy Eisenberg

Associate Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Peck, Gregory
Sent: Thursday, January 12, 2017 9:19 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: FW: Talking points on Cargill

Are you all going to have comments? Thanks

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Kupchan, Simma
Sent: Wednesday, January 11, 2017 4:39 PM
To: Garbow, Avi <Garbow.Avi@epa.gov>; Mitchell, Stacey <Mitchell.Stacey@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Subject: Talking points on Cargill

ATTORNEY-CLIENT PRIVILEGED; DELIBERATIVE PROCESS

Attached please find talking points briefly summarizing OGC's views regarding the issuance of the Cargill JD at this time.

Please contact me with any questions or concerns. Thanks for your attention.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 1/12/2017 9:02:24 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Peck, Gregory [Peck.Gregory@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: draft cover note SORRY i thought i sent this a while ago
Attachments: steve comments Principles Memo Response Cover Note from Avi.docx

We discussed transmittal with Stacey at reg review. I've made the attached edits to try to reflect the conversation.

I think next steps are:

- Wait to hear back from Stacey on the analysis
- Send Stacey the transmittal via email when we are ok with it (we should run by the region too)
- When she ok's that, we put the entire package into CTS through me to Avi, with courtesy copies to Carrie, Aditi,

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Kupchan, Simma
Sent: Thursday, January 12, 2017 1:22 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: draft cover note

Comments welcome. Thanks.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Neugeboren, Steven
Sent: Thursday, January 12, 2017 12:34 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: Any progress?

I just spoke with her. I told her we'd have a final draft for her to look at today once Simma makes some final revisions. So Simma please email to her when you're done

(Carrie – simma and I discussed

Deliberative Process / Ex. 5

Then we need to draft the transmittal memo from Avi to Mike. I'm thinking something

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

But that's just thought.

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Peck, Gregory
Sent: Thursday, January 12, 2017 12:31 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: Any progress?

Thanks Steve. Any advice from Stacey regarding proceeding with Deliberative Process / Ex. 5 How do we keep that moving?

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Neugeboren, Steven
Sent: Thursday, January 12, 2017 12:27 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: Any progress?

Deliberative Process / Ex. 5

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Peck, Gregory
Sent: Thursday, January 12, 2017 10:23 AM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: RE: Any progress?

Thnx. I have a couple of thoughts which I'll include with Wetlands Division suggestions as soon as I get them. One issue for your consideration is whether.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Wehling, Carrie
Sent: Thursday, January 12, 2017 10:18 AM
To: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: RE: Any progress?

Simma is working thru some comments from us and then will send to Avi and Stacey. She does not have outgoing email access so will have to go to a hotspot to send it thru remote access....

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Wendelowski, Karyn
Sent: Wednesday, January 11, 2017 3:48 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: Re: Any progress?

Carrie and Steve are reviewing Simma's draft now and I just talked thru some comments with her.

From: Peck, Gregory
Sent: Wednesday, January 11, 2017 3:47 PM
To: Wendelowski, Karyn
Subject: Any progress?

Still planning to get something to Stan this evening? Thanks

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 11/17/2016 10:52:10 PM
To: Best-Wong, Benita [Best-Wong.Benita@epa.gov]
CC: Carrie Wehling [Wehling.Carrie@epa.gov]; Simma Kupchan [Kupchan.Simma@epa.gov]; Avi Garbow [Garbow.Avi@epa.gov]; Peck, Gregory [Peck.Gregory@epa.gov]
Subject: RE: Cargill

Thank you for clarifying that Benita as I was not aware. Copying my team.

From: Best-Wong, Benita
Sent: Thursday, November 17, 2016 5:48 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: RE: Cargill

Steve – as an FYI for you, Joel is also recused from matters involving Cargill.

Regards,
Benita

Benita Best-Wong
Director
Office of Wetlands, Oceans, and Watersheds
Office of Water
US EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460

From: Neugeboren, Steven
Sent: Thursday, November 17, 2016 5:46 PM
To: Beauvais, Joel <Beauvais.Joel@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Goodin, John <Goodin.John@epa.gov>
Subject: FW: Cargill

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

 can be reached at 564-5488 if you'd like to discuss. Thanks.

From: Mitchell, Stacey
Sent: Thursday, November 17, 2016 5:36 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>
Subject: Cargill

All –

Per my discussion just now with Steve, I cannot be engaged on issues related to Cargill and am referring him to you, Avi.

I am forwarding the last piece of information I had.

Best,

Stacey

Stacey H. Mitchell
Deputy General Counsel
U.S. Environmental Protection Agency
(202) 564-7614

From: Beauvais, Joel
Sent: Tuesday, October 04, 2016 2:57 PM
To: Mitchell, Stacey <Mitchell.Stacey@epa.gov>
Subject: FW: FW:

From: Best-Wong, Benita
Sent: Monday, September 26, 2016 12:11 PM
To: Beauvais, Joel <Beauvais.Joel@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: Fwd: FW:

Hi Joel,
Greg may have shared this with you already so I apologize for the double posting. Cargill has requested a six month pause on their JD request. See email chain below.
Benita

Sent from my iPhone

Begin forwarded message:

From: "Kao, Jessica" <Kao.Jessica@epa.gov>
Date: September 22, 2016 at 8:33:51 PM CDT
To: "Torres, Tomas" <Torres.Tomas@epa.gov>, "Brush, Jason" <Brush.Jason@epa.gov>, "Leidy, Robert" <Leidy.Robert@epa.gov>, "Kermish, Laurie" <Kermish.Laurie@epa.gov>, "Moffatt, Brett" <Moffatt.Brett@epa.gov>, "Campbell, Rich" <Campbell.Rich@epa.gov>
Cc: "Quast, Sylvia" <Quast.Sylvia@epa.gov>, "Best-Wong, Benita" <Best-Wong.Benita@epa.gov>
Subject: FW:

All,

FYI. Mr. Kane manages DMB Pacific Ventures.

Jessica Kao
Chief of Staff, Office of the Regional Administrator
USEPA, Pacific Southwest Region (Arizona, California, Hawaii, Nevada, Pacific Islands & 148 Tribes)
75 Hawthorne Street
San Francisco, CA 94105
415-972-3922

From: Eneas Kane [mailto:EKane@dmbpv.com]
Sent: Monday, September 19, 2016 9:59 AM
To: Kao, Jessica <Kao.Jessica@epa.gov>
Cc: rmartella@sidley.com; David Smith <dsmith@sticeblock.com>
Subject:

Dear Ms. Kao,

That is correct. As we continue to evaluate the site, and as indicated below, we are requesting a pause for a six month period, while fully preserving and reserving our legal objections. As my original email indicates, this is intended to realize only a temporary tolling of our respective efforts while preserving the status quo.

Eneas Kane

From: Kao, Jessica [mailto:Kao.Jessica@epa.gov]
Sent: Tuesday, September 13, 2016 6:24 PM
To: Eneas Kane
Cc: rmartella@sidley.com; David Smith
Subject: RE:

Dear Mr. Kane,

Thank you for the email notice. For clarification, I understand that the requested pause refers specifically to Saltworks' request for a Clean Water Act jurisdictional determination of its Redwood City site that is the subject of the referenced EPA special case.

Jessica Kao

Chief of Staff, Office of the Regional Administrator
USEPA, Pacific Southwest Region (Arizona, California, Hawaii, Nevada, Pacific Islands & 148 Tribes)
75 Hawthorne Street
San Francisco, CA 94105
415-972-3922

From: Eneas Kane [mailto:EKane@dmbpv.com]
Sent: Tuesday, September 13, 2016 1:50 PM
To: Kao, Jessica <Kao.Jessica@epa.gov>
Cc: rmartella@sidley.com; David Smith <dsmith@sticeblock.com>
Subject:

Dear Ms. Kao,

On March 18, 2015, Ken Kopocis, then Deputy Assistant Administrator of Water for EPA, informed the Corps of Engineers that EPA headquarters was granting EPA Region IX's request to place the Redwood City Saltworks on its "special case" list. Mr. Kopocis further said that this action had the effect of divesting the Corps of the authority to issue a jurisdictional determination for the site and vested such authority in EPA. It is our understanding that since that time, EPA headquarters has delegated significant responsibility for preparation of the jurisdictional determination to Region IX and that Region IX has been working and continues to work on that task. As you are aware, Saltworks respectfully believes that EPA's actions are contrary to applicable law.

At this time, as we continue to evaluate the site, we are requesting a pause of Saltworks' request for a six month period, while fully preserving and reserving our legal objections. To be clear, this is intended to

realize only a temporary tolling of our respective efforts while preserving the status quo. We also will reach out in the event we believe action is warranted sooner.

We appreciate your consideration of this request. Should you have any questions, please feel free to contact me.

Eneas Kane

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 1/9/2017 6:28:26 PM
To: Avi Garbow [Garbow.Avi@epa.gov]
Subject: cargil note from alexis/stan

Avi – don't know if this came up in morning mtg, but see note below originated from Alexis, via stan. Alexis in a weekly report to Stan says:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

We are meeting with

Mike this afternoon. Will let you know how it goes.

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Peck, Gregory
Sent: Monday, January 09, 2017 12:59 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: FW: R9 weekend note

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Shapiro, Mike
Sent: Monday, January 09, 2017 8:33 AM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Subject: FW: R9 weekend note

Greg,

Is Stan's reference to Calpine another term for the Cargill issue? There's nothing in Alexis' report that refers to either term, so I'm assuming that the report itself just triggered San's thoughts about this.

Mike

Michael Shapiro
Deputy Assistant Administrator, Office of Water
US EPA, 4101M
1200 Pennsylvania Ave., NW
Washington, DC 20460

From: Meiburg, Stan
Sent: Monday, January 09, 2017 8:00 AM
To: Strauss, Alexis <Strauss.Alexis@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: Re: R9 weekend note

Mike and Alexis, the Calpine matter: **Deliberative Process / Ex. 5** Please let me know if there is anything you need from me.

Stan

A. Stanley Meiburg
Acting Deputy Administrator
U.S. Environmental Protection Agency

Sent from my iPhone

On Jan 7, 2017, at 5:04 PM, Strauss, Alexis <Strauss.Alexis@epa.gov> wrote:

Navajo Nation:

Deliberative Process / Ex. 5

Air: we're briefing Janet on actions for the Administrator's signature next week. The **Deliberative Process / Ex. 5** er

Deliberative Process / Ex. 5

Pesticides: following my meeting with the California ag commissioners a few weeks ago, some have asked to partner with us: **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Wetlands: we hosted a very well-attended San Francisco Bay wetlands conference. A recent successful ballot measure will generate \$500 million to fund shoreline habitat restoration and resilience. This was the first opportunity for a coalition of government agencies, NGOs and private-sector partners to discuss how we can work together to improve the San Francisco Bay and estuary with this sustained funding source. On a separate note, we will work with OW and OGC

Nonresponsive Discussion of Personal Matters / Ex. 6

Deliberative Process / Ex. 5

Hiring: we are intensively focused on hiring. As of week's end, we will have hired 50 staff since the start of FY2017 – you can all be proud of the caliber of incoming staff.

Best wishes,
Alexis

Appointment

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 1/9/2017 3:57:06 AM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: Accepted: ORC R9-WLO Premeeting on Cargill Next Steps
Location: Steve's office; Phone line tbd
Start: 1/9/2017 8:00:00 PM
End: 1/9/2017 8:30:00 PM
Show Time As: Busy

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 1/5/2017 11:05:18 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
CC: Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: For Thursday afternoon - Cargill cover note for your review

This look good to me

Nonresponsive Discussion of Personal Matters / Ex. 6

Nonresponsive Discussion of Personal Matters / Ex. 6

Donna's paper looked fine as far as a summary of the memo, but I think you should feel free to alter/change/shorten as you deem appropriate

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

So I think we need a note back to greg/donna saying this looks

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

We only have a half hour so it's not much time.

Also, Jessica from region 9 called me and gave a little more info about Alexis calling Stan – she said Alexis will be looking

Deliberative Process / Ex. 5

In sum, while the briefing is about will need to be discussed at the mtg.

Deliberative Process / Ex. 5

I will send a note to greg/owow to get the ball rolling.

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Kupchan, Simma
Sent: Thursday, January 05, 2017 5:27 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: For Thursday afternoon - Cargill cover note for your review

Steve,

Attached are my revisions to the cover memo. Please let me know if you have comments. I recommend reviewing the clean version, but attaching redlines FYI.

I will be online later tonight and tomorrow and could turn around any further edits quickly.

Nonresponsive Discussion of Personal Matters / Ex. 6

Thanks,

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Neugeboren, Steven
Sent: Wednesday, January 04, 2017 6:09 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: For Thursday afternoon - Cargill cover note for your review

My comments on top of greg's.

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Peck, Gregory
Sent: Wednesday, January 04, 2017 2:24 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Re: For Thursday afternoon - Cargill cover note for your review

Simma - please see my suggested edits to the draft cover memo. Glad to discuss my thoughts in preparing these changes.

I'll also review the attachment.

Thanks

From: Kupchan, Simma
Sent: Wednesday, January 4, 2017 11:36:49 AM
To: Peck, Gregory; Best-Wong, Benita; Neugeboren, Steven
Cc: Goodin, John; Downing, Donna; Wehling, Carrie
Subject: RE: For Thursday afternoon - Cargill cover note for your review

Also, please note in particular that

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Kupchan, Simma
Sent: Wednesday, January 04, 2017 11:27 AM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Steven Neugeboren <Neugeboren.Steven@epa.gov>
Cc: John Goodin <Goodin.John@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Carrie Wehling <Wehling.Carrie@epa.gov>
Subject: For Thursday afternoon - Cargill cover note for your review
Importance: High

All,

Attached for your review is a revised draft of OW's initial cover note for the Cargill memorandum (also attached for your convenience.)

Please send me edits by 3:30 pm tomorrow, Thursday, so that we can incorporate them and prepare to send the draft note along with the memo to Mike Shapiro before the weekend, in advance of his Monday briefing on this.

Thank you!

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 1/4/2017 11:33:47 PM
To: Quast, Sylvia [Quast.Sylvia@epa.gov]; Kermish, Laurie [Kermish.Laurie@epa.gov]
CC: Simma Kupchan [Kupchan.Simma@epa.gov]; Carrie Wehling [Wehling.Carrie@epa.gov]
Subject: Cargill legal analysis
Attachments: Cargill Draft Corps Rebuttal Points OWOW Reviewed 10 26 16.docx

I tried reaching Sylvia (but her voicemail said she is out and not checking messages) and then left a voicemail for Laurie. As I indicated in my message, we were asked to **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5 Our draft analysis is attached and we'd like the region's review and input. Please provide any comments to Simma by noon Monday. Happy to set up a call to discuss.

There is a briefing scheduled with Mike Shapiro about this Monday at 430. Let us know if you'd like to participate.

We envision **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

Message

From: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Sent: 1/4/2017 3:55:19 AM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]
CC: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: Re: next steps on Cargill

Let's talk to Greg/owow but since we have
Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

I talked with Benita but please also touch base with Greg I'm general if you haven't already. Thanks.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC. 20460
202-564-5488

On Jan 3, 2017, at 3:37 PM, Wehling, Carrie <Wehling.Carrie@epa.gov> wrote:

My instinct would be to

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

But I am still pretty green on 404 transactions, so copying Steve for his input.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Kupchan, Simma
Sent: Tuesday, January 03, 2017 2:46 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: next steps on Cargill

OW's draft memo is **Deliberative Process / Ex. 5** Do we like that approach, or should it be
Deliberative Process / Ex. 5 ? Or should we check with Steve?

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Wehling, Carrie
Sent: Tuesday, January 03, 2017 2:21 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: next steps on Cargill

Simma – Steve and I discussed and he is going to followup with Sylvia. I think the idea is to Deliberative Process / Ex. 5
Deliberative Process / Ex. 5 Do you want to start drafting that? I think OWOW started that some time ago but given the time crunch, might be best for us to take the pen on that.

Let me know if you'd like to discuss what should go in that – Deliberative Process / Ex. 5

Thanks.

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Garbow, Avi
Sent: Thursday, December 22, 2016 4:23 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: next steps on Cargill

Folks,

I am comfortable with this approach. See if you can run this through Sylvia. I am happy to call Alexis if Sylvia or others think it would be helpful.

Thanks very much.

Avi

Avi Garbow
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Neugeboren, Steven
Sent: Wednesday, December 21, 2016 11:36 AM
To: Garbow, Avi <Garbow.Avi@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: next steps on Cargill

Deliberative Process / Ex. 5

Nonresponsive Discussion of Personal Matters / Ex. 6

If you do have a conversation with Alexis, we'd suggest the following points.

-
- **Deliberative Process / Ex. 5**
- <!--[if !supportLists]--><!--[endif]-->My folks have done a first draft and will share it with the region for your review/comment to ensure full coordination.
-
- **Deliberative Process / Ex. 5**

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

Appointment

From: Meiburg, Stan [Meiburg.Stan@epa.gov]
Sent: 1/10/2017 9:23:28 PM
To: Meiburg, Stan [Meiburg.Stan@epa.gov]; Shapiro, Mike [Shapiro.Mike@epa.gov]; Garbow, Avi [Garbow.Avi@epa.gov]
CC: Peck, Gregory [Peck.Gregory@epa.gov]

Subject: FW: General with Mike Shapiro
Location: WJC-n 3412

Start: 1/11/2017 4:30:00 PM
End: 1/11/2017 5:00:00 PM
Show Time As: Busy

FYI,

Per our conversation

Crystal N. Edwards
United States Environmental Protection Agency
Office of Water
William Jefferson Clinton East Building
Room 3223B
(202)564-1661

-----Original Appointment-----

From: Meiburg, Stan
Sent: Tuesday, January 10, 2017 3:52 PM
To: Meiburg, Stan; Shapiro, Mike; Garbow, Avi
Subject: General with Mike Shapiro
When: Wednesday, January 11, 2017 11:30 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: WJC-n 3412

Re: Cargill

Message

From: Goodin, John [Goodin.John@epa.gov]
Sent: 1/13/2017 4:15:10 PM
To: Peck, Gregory [Peck.Gregory@epa.gov]
Subject: Automatic reply: REVISED Cover note and draft of Cargill memo

I am out of the office on Friday. Please contact Mindy Eisenberg if your matter requires more immediate attention.
Thanks,
John

Message

From: Goodin, John [Goodin.John@epa.gov]
Sent: 11/10/2016 7:23:51 PM
To: Peck, Gregory [Peck.Gregory@epa.gov]; Best-Wong, Benita [Best-Wong.Benita@epa.gov]
Subject: Cover memo for Legal Principles Memo
Attachments: Cover memo for Legal Principles Memo v3.docx; Cargill Draft Corps Rebuttal Points OWOW Reviewed 10 26 16.docx

Greg and Benita-- per our discussions, attached is a draft cover memo that could serve to frame OGC's detailed Deliberative Process / Ex. 5 Donna worked with Simma on addressing WD comments to the detailed attachment, Nonresponsive Discussion of Personal Matters / Ex. 6

Thanks
John

Message

From: Wehling, Carrie [Wehling.Carrie@epa.gov]
Sent: 1/25/2017 9:05:09 PM
To: Peck, Gregory [Peck.Gregory@epa.gov]
Subject: RE: EPA Response to "Legal Principles to Guide the Approved Jurisdictional Determination for the

Got it. thanks.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Peck, Gregory
Sent: Wednesday, January 25, 2017 3:34 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Re: EPA Response to "Legal Principles to Guide the Approved Jurisdictional Determination for the

You're welcome. Craig is trying to manage this so

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 We'll see.

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
Washington, DC 20460

(202)564-5700

On Jan 25, 2017, at 3:30 PM, Wehling, Carrie <Wehling.Carrie@epa.gov> wrote:

Thanks, Greg. That's helpful.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Peck, Gregory
Sent: Wednesday, January 25, 2017 3:29 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>
Subject: Re: EPA Response to "Legal Principles to Guide the Approved Jurisdictional Determination for the

Hi Carrie. As of Monday, Army counsel had transmitted the response memo to Corps counsel and copied Corps regulatory. The memo concluded that **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5 Craig agrees that EPAs memo
Deliberative Process / Ex. 5 He'll let us know as soon as hears back from corps counsel.

OK?

Gregory E. Peck
Chief of Staff
Office of Water
U.S.Environmental Protection Agency
Washington, DC 20460

(202)564-5700

On Jan 25, 2017, at 1:37 PM, Wehling, Carrie <Wehling.Carrie@epa.gov> wrote:

Greg – any update on the status of this memo with respect to the Corps? Did anything come from Corps HQ to Districts?
Thanks.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Eisenberg, Mindy
Sent: Tuesday, January 17, 2017 9:39 PM
To: Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: Fwd: EPA Response to “Legal Principles to Guide the Approved Jurisdictional Determination for the

Sent from my iPhone

Begin forwarded message:

From: "Peck, Gregory" <Peck.Gregory@epa.gov>
Date: January 17, 2017 at 6:50:27 PM EST
To: "Eisenberg, Mindy" <Eisenberg.Mindy@epa.gov>
Subject: Fwd: EPA Response to “Legal Principles to Guide the Approved Jurisdictional Determination for the

Gregory E. Peck
Chief of Staff
Office of Water
U.S.Environmental Protection Agency
Washington, DC 20460

(202)564-5700

Begin forwarded message:

From: "Shapiro, Mike" <Shapiro.Mike@epa.gov>
Date: January 17, 2017 at 3:52:17 PM EST
To: "Strauss, Alexis" <Strauss.Alexis@epa.gov>
Cc: Regional Administrators
<Regional_Administrators@epa.gov>, Water Program
Contact List - Directors
<Water_Program_Contact_List_Directors@epa.gov>,
"Meiburg, Stan" <Meiburg.Stan@epa.gov>, "Garbow,
Avi" <Garbow.Avi@epa.gov>, "Peck, Gregory"
<Peck.Gregory@epa.gov>
Subject: EPA Response to "Legal Principles to Guide
the Approved Jurisdictional Determination for the

Good Afternoon,

Please read the attached correspondence.

Mike

Michael Shapiro
Deputy Assistant Administrator, Office of Water
US EPA, 4101M
1200 Pennsylvania Ave., NW
Washington, DC 20460
202-564-5700

<MHShapiro to AStrauss re Redwood City Salt Plant 01-17-17.pdf>
<Response to Corps Principles Memo on Cargill 1.13.17.docx>
<OGC-3008.pdf>

Message

From: Schmauder, Craig R SES (US) [craig.r.schmauder.civ@mail.mil]
Sent: 1/23/2017 11:24:38 PM
To: Peck, Gregory [Peck.Gregory@epa.gov]
Subject: FW: Cargill - Redwood City Salt Ponds
Attachments: MHShapiro to AStrauss re Redwood City Salt Plant 01-17-17.pdf; Response to Corps Principles Memo on Cargill 1.13.17.docx; OGC-3008.pdf

Importance: High

Greg, FYI

Respectfully -- Craig
Craig R. Schmauder, SES
Deputy General Counsel
Installations, Environment & Civil Works
(703) 695-2253

NOTICE: This message may contain information protected by the attorney-client, attorney work-product, deliberative-process, or other privilege. Do not disseminate without the approval of the Office of the General Counsel, Department of the Army. If you have received this message in error, please notify the sender immediately by email or telephone and delete this message.

-----Original Message-----

From: Schmauder, Craig R SES (US)
Sent: Monday, January 23, 2017 4:58 PM
To: 'Cooper, David R SES USARMY CEHQ (US)' <David.R.Cooper@usace.army.mil>
Cc: Bregman, Lauren R CIV USARMY HQDA OGC (US) <lauren.r.bregman.civ@mail.mil>; Brown, Anne M CIV USARMY HQDA OGC (US) <anne.m.brown7.civ@mail.mil>; Rathbun, Colleen A CIV (US) <colleen.a.rathbun.civ@mail.mil>; Roy, Catherine B (Katie) CPT USARMY HQDA OGC (US) <catherine.b.roy.mil@mail.mil>
Subject: Cargill - Redwood City Salt Ponds
Importance: High

Deliberative Process / Ex. 5

Respectfully -- Craig
Craig R. Schmauder, SES
Deputy General Counsel
Installations, Environment & Civil Works
(703) 695-2253

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Message

From: Peck, Gregory [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=633D0632187140118EA1387B7A8169B0-GPECK]
Sent: 1/12/2017 3:25:22 PM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: FW: Talking points on Cargill

Looks like we won't be providing any additional comments beyond what I've sent already.

Thanks for the great work on this issue.

Greg

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Downing, Donna
Sent: Thursday, January 12, 2017 10:22 AM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: RE: Talking points on Cargill

I agree with Greg's concerns. In addition, [REDACTED] Deliberative Process / Ex. 5

[REDACTED] Deliberative Process / Ex. 5

[REDACTED] Deliberative Process / Ex. 5 I have more to say but am running off to belatedly stick my head into Joel and Ellen's retirement party. Happy to discuss.

Donna

From: Peck, Gregory
Sent: Thursday, January 12, 2017 10:14 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Downing, Donna <Downing.Donna@epa.gov>
Subject: RE: Talking points on Cargill

My concerns are mostly [REDACTED] Deliberative Process / Ex. 5 The TPs seem to suggest that [REDACTED] Deliberative Process / Ex. 5

[REDACTED] Deliberative Process / Ex. 5 ? My sense is that [REDACTED] Deliberative Process / Ex. 5

[REDACTED] ? Also concerned that [REDACTED] Deliberative Process / Ex. 5

[REDACTED] Deliberative Process / Ex. 5 ?

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Eisenberg, Mindy
Sent: Thursday, January 12, 2017 9:21 AM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Subject: RE: Talking points on Cargill

John is fine but I'm waiting on Donna who is in a meeting at the moment. I will ask her to get back to you shortly.

Mindy Eisenberg
Associate Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Peck, Gregory
Sent: Thursday, January 12, 2017 9:19 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: FW: Talking points on Cargill

Are you all going to have comments? Thanks

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Kupchan, Simma
Sent: Wednesday, January 11, 2017 4:39 PM
To: Garbow, Avi <Garbow.Avi@epa.gov>; Mitchell, Stacey <Mitchell.Stacey@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Subject: Talking points on Cargill

ATTORNEY-CLIENT PRIVILEGED; DELIBERATIVE PROCESS

Attached please find talking points briefly summarizing OGC's views regarding the issuance of the Cargill JD at this time.

Please contact me with any questions or concerns. Thanks for your attention.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel

ED_002358_00037898-00002

William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

Message

From: Peck, Gregory [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=633D0632187140118EA1387B7A8169B0-GPECK]
Sent: 1/12/2017 2:23:11 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
CC: Shapiro, Mike [Shapiro.Mike@epa.gov]
Subject: RE: Talking points on Cargill

Should we be including in this discussion our recommendation to

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Kupchan, Simma
Sent: Wednesday, January 11, 2017 5:03 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Cc: Garbow, Avi <Garbow.Avi@epa.gov>; Mitchell, Stacey <Mitchell.Stacey@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: RE: Talking points on Cargill

Happy to accommodate your schedules -- these were prepared in advance of a meeting on this issue, as I understand it, so if you send me comments a few hours before that meeting, whenever it is scheduled for, I will turn them around quickly.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Peck, Gregory
Sent: Wednesday, January 11, 2017 4:41 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Garbow, Avi <Garbow.Avi@epa.gov>; Mitchell, Stacey <Mitchell.Stacey@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: Re: Talking points on Cargill

When would you like any comments from OW? Thanks Simma?

Gregory E. Peck

Chief of Staff
Office of Water
U.S.Environmental Protection Agency
Washington, DC 20460

(202)564-5700

On Jan 11, 2017, at 4:39 PM, Kupchan, Simma <Kupchan.Simma@epa.gov> wrote:

ATTORNEY-CLIENT PRIVILEGED; DELIBERATIVE PROCESS

Attached please find talking points briefly summarizing OGC's views regarding the issuance of the Cargill JD at this time.

Please contact me with any questions or concerns. Thanks for your attention.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

<Talking Points on Cargill Draft JD.docx>

Message

From: Peck, Gregory [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=633D0632187140118EA1387B7A8169B0-GPECK]
Sent: 1/9/2017 8:48:29 PM
To: Orvin, Chris [Orvin.Chris@epa.gov]
Subject: Can you print these for me.... thnx
Attachments: Ag Comm Draft Response (2).docx; Agenda Cargill w Mike.docx

One copy of the first and 10 of the second. Thnx

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

Agenda
Cargill Options/Next Steps
January 9, 2017

- I. Key Background (OW)**
- Brief history/Corps memo
- Cargill's request to delay

II. Deliberative Process / Ex. 5

III.

- IV. Next Steps (All)**

Message

From: Peck, Gregory [Peck.Gregory@epa.gov]
Sent: 1/9/2017 2:13:06 PM
To: Shapiro, Mike [Shapiro.Mike@epa.gov]
Subject: Re: R9 weekend note

Hi Mike. Guessing "Calpine" is Stan and Apple's misspelling of Cargill. I think you're right that **Deliberative Process / Ex. 5** **Deliberative Process / Ex. 5** We'll be ready to discuss with you this afternoon. Several options for moving forward.

Greg

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
Washington, DC 20460

(202)564-5700

On Jan 9, 2017, at 8:33 AM, Shapiro, Mike <Shapiro.Mike@epa.gov> wrote:

Greg,

Is Stan's reference to Calpine another term for the Cargill issue? There's nothing in Alexis' report that refers to either term, so I'm assuming that the report itself just triggered Stan's thoughts about this.

Mike

Michael Shapiro
Deputy Assistant Administrator, Office of Water
US EPA, 4101M
1200 Pennsylvania Ave., NW
Washington, DC 20460
202-564-5700

From: Meiburg, Stan
Sent: Monday, January 09, 2017 8:00 AM
To: Strauss, Alexis <Strauss.Alexis@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: Re: R9 weekend note

Mike and Alexis, **Deliberative Process / Ex. 5** Please let me know if there is anything you need from me.

Stan

A. Stanley Meiburg
Acting Deputy Administrator
U.S. Environmental Protection Agency

Sent from my iPhone

On Jan 7, 2017, at 5:04 PM, Strauss, Alexis <Strauss.Alexis@epa.gov> wrote:

Navajo Nation:

a.

b.

Nonresponsive Discussion of Personal Matters / Ex. 6

c.

Air: we're briefing Janet on actions for the Administrator's signature

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Pesticides: following my meeting with the California ag commissioners a few weeks ago, some have asked to partner with us

Nonresponsive Discussion of Personal Matters / Ex. 6

Nonresponsive Discussion of Personal Matters / Ex. 6

Deliberative Process / Ex. 5

Wetlands: we hosted a very well-attended San Francisco Bay wetlands conference. A recent successful ballot measure will generate \$500 million to fund shoreline habitat restoration and resilience. This was the first opportunity for a coalition of government agencies, NGOs and private-sector partners to discuss how we can work together to improve the San Francisco Bay and estuary with this sustained funding source. On a separate note, we will work with OW and OGC to

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Hiring: we are intensively focused on hiring. As of week's end, we will have hired 50 staff since the start of FY2017 – you can all be proud of the caliber of incoming staff.

Best wishes,
Alexis

Message

From: Peck, Gregory [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=633D0632187140118EA1387B7A8169B0-GPECK]
Sent: 1/5/2017 3:41:15 PM
To: Orvin, Chris [Orvin.Chris@epa.gov]
Subject: FW: Document Request for Stan Meiburg from Redwood City 404 Share Site

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Neugeboren, Steven
Sent: Thursday, January 05, 2017 9:47 AM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: Re: Document Request for Stan Meiburg from Redwood City 404 Share Site

We will add this info to our weekly mtg with Avi at 1.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC. 20460
202-564-5488

On Jan 5, 2017, at 9:13 AM, Peck, Gregory <Peck.Gregory@epa.gov> wrote:

I think we had a strong sense from Regional staff – including ORC, that they intended to Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Wehling, Carrie
Sent: Thursday, January 05, 2017 8:52 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>;
Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>
Subject: FW: Document Request for Stan Meiburg from Redwood City 404 Share Site
Importance: High

Did we know about this? Should we let Avi know – might need to **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5
Copying Greg and Benita for SA.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Threet, Derek
Sent: Thursday, January 05, 2017 8:43 AM
To: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Document Request for Stan Meiburg from Redwood City 404 Share Site
Importance: High

Carrie and Karyn –

Deliberative Process / Ex. 5

Any assistance you can provide would be wonderful.

Thanks.

Derek

Derek Jason Threet, Special Assistant
Office of the Administrator (OW, OEI, OCFO)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, D.C. 20004
Telephone: (202) 564-1409
Office Cell Phone: **Personal Phone / Ex. 6**

Message

From: Peck, Gregory [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=633D0632187140118EA1387B7A8169B0-GPECK]
Sent: 1/4/2017 5:41:49 PM
To: Orvin, Chris [Orvin.Chris@epa.gov]
Subject: Fw: For Thursday afternoon - Cargill cover note for your review

FYI

From: Kupchan, Simma
Sent: Wednesday, January 4, 2017 11:36 AM
To: Peck, Gregory; Best-Wong, Benita; Neugeboren, Steven
Cc: Goodin, John; Downing, Donna; Wehling, Carrie
Subject: RE: For Thursday afternoon - Cargill cover note for your review

Also, please note in particular that the draft cover note is addressed to the RAs, cc-ing the Corps chief counsel. Let us know if you agree with that approach or would like to change it. Thanks.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Kupchan, Simma
Sent: Wednesday, January 04, 2017 11:27 AM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Steven Neugeboren <Neugeboren.Steven@epa.gov>
Cc: John Goodin <Goodin.John@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Carrie Wehling <Wehling.Carrie@epa.gov>
Subject: For Thursday afternoon - Cargill cover note for your review
Importance: High

All,

Attached for your review is a revised draft of OW's initial cover note for the Cargill memorandum (also attached for your convenience.)

Please send me edits by 3:30 pm tomorrow, Thursday, so that we can incorporate them and prepare to send the draft note along with the memo to Mike Shapiro before the weekend, in advance of his Monday briefing on this.

Thank you!

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

Message

From: Peck, Gregory [Peck.Gregory@epa.gov]
Sent: 1/23/2017 11:46:53 PM
To: Schmauder, Craig R SES (US) [craig.r.schmauder.civ@mail.mil]
Subject: Re: Cargill - Redwood City Salt Ponds

Thanks.

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
Washington, DC 20460

(202)564-5700

> On Jan 23, 2017, at 6:24 PM, Schmauder, Craig R SES (US) <craig.r.schmauder.civ@mail.mil> wrote:
>
> Greg, FYI
>
>
> Respectfully -- Craig
> Craig R. Schmauder, SES
> Deputy General Counsel
> Installations, Environment & Civil Works
> (703) 695-2253
> NOTICE: This message may contain information protected by the attorney-client, attorney work-product,
deliberative-process, or other privilege. Do not disseminate without the approval of the Office of the
General Counsel, Department of the Army. If you have received this message in error, please notify the
sender immediately by email or telephone and delete this message.
>
>
> -----Original Message-----
> From: Schmauder, Craig R SES (US)
> Sent: Monday, January 23, 2017 4:58 PM
> To: 'Cooper, David R SES USARMY CEHQ (US)' <David.R.Cooper@usace.army.mil>
> Cc: Bregman, Lauren R CIV USARMY HQDA OGC (US) <lauren.r.bregman.civ@mail.mil>; Brown, Anne M CIV
USARMY HQDA OGC (US) <anne.m.brown7.civ@mail.mil>; Rathbun, Colleen A CIV (US)
<colleen.a.rathbun.civ@mail.mil>; Roy, Catherine B (Katie) CPT USARMY HQDA OGC (US)
<catherine.b.roy.mil@mail.mil>
> Subject: Cargill - Redwood City Salt Ponds
> Importance: High
>

Deliberative Process / Ex. 5

>
> Respectfully -- Craig
> Craig R. Schmauder, SES
> Deputy General Counsel
> Installations, Environment & Civil Works
> (703) 695-2253
> NOTICE: This message may contain information protected by the attorney-client, attorney work-product,
deliberative-process, or other privilege. Do not disseminate without the approval of the Office of the
General Counsel, Department of the Army. If you have received this message in error, please notify the
sender immediately by email or telephone and delete this message.
>
> <MShapiro to Astrauss re Redwood City Salt Plant 01-17-17.pdf>
> <Response to Corps Principles Memo on Cargill 1.13.17.docx>
> <OGC-3008.pdf>

Message

From: Peck, Gregory [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=633D0632187140118EA1387B7A8169B0-GPECK]
Sent: 1/23/2017 2:57:02 PM
To: Schmauder, Craig R SES (US) [craig.r.schmauder.civ@mail.mil]
Subject: RE: Cargill memo

Ok - sounds good. Lets chat.

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

-----Original Message-----

From: Schmauder, Craig R SES (US) [mailto:craig.r.schmauder.civ@mail.mil]
Sent: Monday, January 23, 2017 9:56 AM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Subject: RE: Cargill memo

Have not yet, since I was out so much last week. Let's discuss today.

Respectfully -- Craig
Craig R. Schmauder, SES
Deputy General Counsel
Installations, Environment & Civil Works
(703) 695-2253

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-----Original Message-----

From: Peck, Gregory [mailto:Peck.Gregory@epa.gov]
Sent: Monday, January 23, 2017 8:44 AM
To: Schmauder, Craig R SES (US) <craig.r.schmauder.civ@mail.mil>
Subject: [Non-DoD Source] Cargill memo

Were you able to send that to the Corps? Lets catch up this morning before John meets with the Jen.

Thanks

Greg

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

Message

From: Peck, Gregory [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=633D0632187140118EA1387B7A8169B0-GPECK]
Sent: 1/23/2017 1:43:56 PM
To: Schmauder, Craig R SES (US) [craig.r.schmauder.civ@mail.mil]
Subject: Cargill memo

Were you able to send that to the Corps? Lets catch up this morning before John meets with the Jen.

Thanks
Greg

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

Message

From: Peck, Gregory [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=633D0632187140118EA1387B7A8169B0-GPECK]
Sent: 1/17/2017 8:56:53 PM
To: Schmauder, Craig R SES (US) [craig.r.schmauder.civ@mail.mil]
Subject: FW: EPA Response to "Legal Principles to Guide the Approved Jurisdictional Determination for the
Attachments: MHShapiro to AStrauss re Redwood City Salt Plant 01-17-17.pdf; Response to Corps Principles Memo on Cargill 1.13.17.docx; OGC-3008.pdf

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Edwards, Crystal **On Behalf Of** Shapiro, Mike
Sent: Tuesday, January 17, 2017 3:52 PM
To: Strauss, Alexis <Strauss.Alexis@epa.gov>
Cc: Regional Administrators <Regional_Administrators@epa.gov>; Water Program Contact List - Directors <Water_Program_Contact_List__Directors@epa.gov>; Meiburg, Stan <Meiburg.Stan@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>
Subject: EPA Response to "Legal Principles to Guide the Approved Jurisdictional Determination for the

Good Afternoon,

Please read the attached correspondence.

Mike

Michael Shapiro
Deputy Assistant Administrator, Office of Water
US EPA, 4101M
1200 Pennsylvania Ave., NW
Washington, DC 20460
202-564-5700

Message

From: Peck, Gregory [Peck.Gregory@epa.gov]
Sent: 1/16/2017 11:13:01 PM
To: Orvin, Chris [Orvin.Chris@epa.gov]
Subject: Fwd: Legal Memo
Attachments: OGC-3008.pdf; ATT00001.htm; Response to Corps Principles Memo on Cargill 1.13.17.docx; ATT00002.htm; AStraussMemo2017_01_17.docx; ATT00003.htm

FYI

Gregory E. Peck
Chief of Staff
Office of Water
U.S.Environmental Protection Agency
Washington, DC 20460

(202)564-5700

Begin forwarded message:

From: "Shapiro, Mike" <Shapiro.Mike@epa.gov>
Date: January 16, 2017 at 2:52:22 PM EST
To: "Fields, Wanda" <Fields.Wanda@epa.gov>
Cc: "Jones-Coleman, Diane" <Jones-Coleman.Diane@epa.gov>, "Peck, Gregory" <Peck.Gregory@epa.gov>
Subject: FW: Legal Memo

Wanda,

Attached is a memo to Alex Strauss and two attachments. I'd like to get this out as soon as possible Tuesday.

Mike

Michael Shapiro
Deputy Assistant Administrator, Office of Water
US EPA, 4101M
1200 Pennsylvania Ave., NW
Washington, DC 20460
202-564-5700

From: Peck, Gregory
Sent: Friday, January 13, 2017 4:55 PM
To: Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: Legal Memo

CC: Regional Administrators, 1-8, 10
Water Division Directors
Stan Meiberg
Avi Garbow

Message

From: Peck, Gregory [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=633D0632187140118EA1387B7A8169B0-GPECK]
Sent: 1/13/2017 9:54:59 PM
To: Shapiro, Mike [Shapiro.Mike@epa.gov]
Subject: Legal Memo
Attachments: OGC-3008.pdf; Response to Corps Principles Memo on Cargill 1.13.17.docx

Mike:

Here's language you can use (or edit) for transmitting Avi's signed legal memo to Alexis. I've also attached the OGC cover memo and legal memo. Please let me know if you have any questions.

Greg

SUBJECT:

FROM:

TO:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Peck, Gregory [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=633D0632187140118EA1387B7A8169B0-GPECK]
Sent: 1/13/2017 8:46:12 PM
To: Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]
CC: Downing, Donna [Downing.Donna@epa.gov]
Subject: RE: REVISED Cover note and draft of Cargill memo

Thanks!

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Eisenberg, Mindy
Sent: Friday, January 13, 2017 3:43 PM
To: Peck, Gregory <Peck.Gregory@epa.gov>
Cc: Downing, Donna <Downing.Donna@epa.gov>
Subject: RE: REVISED Cover note and draft of Cargill memo

Does this work?

Mindy Eisenberg
Associate Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Peck, Gregory
Sent: Friday, January 13, 2017 2:36 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Downing, Donna <Downing.Donna@epa.gov>
Subject: FW: REVISED Cover note and draft of Cargill memo

Can you send me the final version of Mike's transmittal memo and we can prepare for his signature. I assume he'll handle it by email.

Thanks

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency

1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Wehling, Carrie

Sent: Friday, January 13, 2017 2:08 PM

To: Peck, Gregory <Peck.Gregory@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Cc: Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>

Subject: RE: REVISED Cover note and draft of Cargill memo

Yep. Will keep you posted.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Peck, Gregory

Sent: Friday, January 13, 2017 1:53 PM

To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Cc: Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>

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Thanks Carrie. Mike is hoping to be able to send his transmittal out today as early as possible. Appreciate your help!

Best,
Greg

Gregory E. Peck
Chief of Staff
Office of Water
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1200 Pennsylvania Avenue
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To: Peck, Gregory <Peck.Gregory@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

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To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Goodin, John <Goodin.John@epa.gov>
Cc: Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
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Update? Ready soon? Thanks

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1200 Pennsylvania Avenue
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202-564-5700

From: Wehling, Carrie
Sent: Friday, January 13, 2017 11:50 AM
To: Peck, Gregory <Peck.Gregory@epa.gov>; Goodin, John <Goodin.John@epa.gov>
Cc: Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: RE: REVISED Cover note and draft of Cargill memo

Yes. Incorporates their comments.

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Cn you send me the current version of the legal memo itself - thanks

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Revised versions.... Waiting for Stacey's go ahead to put into signature database for Avi.

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wehling.carrie@epa.gov

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To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Mitchell, Stacey <Mitchell.Stacey@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
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Carrie

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Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
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Please let us know if you have any comments or questions. As soon as we hear back from you, I will put it into CTS for Avi's signature. **The goal is for Avi to sign the cover note tomorrow.**

Thank you for your attention to this!

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Kupchan, Simma
Sent: Thursday, January 12, 2017 1:10 PM
To: Mitchell, Stacey <Mitchell.Stacey@epa.gov>; Steven Neugeboren <Neugeboren.Steven@epa.gov>; Carrie Wehling <Wehling.Carrie@epa.gov>
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Message

From: Peck, Gregory [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=633D0632187140118EA1387B7A8169B0-GPECK]
Sent: 1/13/2017 7:08:40 PM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: REVISED Cover note and draft of Cargill memo

Thanks

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Subject: RE: REVISED Cover note and draft of Cargill memo

Update? Ready soon? Thanks

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202-564-5700

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Yes. Incorporates their comments.

Caroline (Carrie) Wehling
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Has this draft been sent to the region for review?

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Caroline (Carrie) Wehling
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wehling.carrie@epa.gov

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Can you send me the current version of the legal memo itself - thanks

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Chief of Staff
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1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

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Revised versions.... Waiting for Stacey's go ahead to put into signature database for Avi.

Caroline (Carrie) Wehling
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wehling.carrie@epa.gov

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Carrie

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Thank you for your attention to this!

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

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Message

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Sent: 1/13/2017 4:44:57 PM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: REVISED Cover note and draft of Cargill memo

Thanks

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

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Sent: 1/13/2017 4:28:04 PM
To: Shapiro, Mike [Shapiro.Mike@epa.gov]
Subject: FW: REVISED Cover note and draft of Cargill memo
Attachments: Principles Memo Response Cover Note from Avi.docx; Response to Corps Principles Memo on Cargill 1.13.17.docx

Gregory E. Peck
Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
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Appointment

From: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Sent: 12/12/2018 3:14:17 PM
To: Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]
CC: Quast, Sylvia [Quast.Sylvia@epa.gov]

Subject: FW: Cargill Draft JD
Attachments: Working Draft JD (OGC December 2018).docx
Location: 7519A

Start: 12/12/2018 7:00:00 PM
End: 12/12/2018 7:30:00 PM
Show Time As: Busy

-----Original Appointment-----

From: Neugeboren, Steven
Sent: Friday, December 7, 2018 4:49 PM
To: Neugeboren, Steven; Wehling, Carrie; Wendelowski, Karyn; Kupchan, Simma
Subject: Cargill Draft JD
When: Wednesday, December 12, 2018 2:00 PM-2:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 7519A

Please let me know if this new proposed time works. There is not a lot of wiggle room on the calendars. Thank you. -
Tasheka

Message

From: Wehling, Carrie [Wehling.Carrie@epa.gov]
Sent: 1/31/2019 1:59:12 PM
To: Quast, Sylvia [Quast.Sylvia@epa.gov]
Subject: fyi re Cargill

FYI re Cargill – thought you might want to know that Senator Feinstein has requested a meeting with the Administrator this week to discuss. **Deliberative Process / Ex. 5**

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

Message

From: Kermish, Laurie [Kermish.Laurie@epa.gov]
Sent: 11/9/2017 12:37:42 AM
To: Quast, Sylvia [Quast.Sylvia@epa.gov]
Subject: Just fyi - FW: Saltworks

This is an even more recent exchange of emails.

Laurie Kermish
CWA Section Chief
Office of Regional Counsel (ORC-2)
U.S. EPA, Region 9
75 Hawthorne St.
San Francisco, CA 94105
(415) 972-3917
(415) 947-3570 (fax)
kermish.laurie@epa.gov

This email may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this email has been received by you in error, you are instructed to delete it from your machine and all storage media whether electronic or hard copy and call the sender at (415) 972-3917.

From: Kao, Jessica
Sent: Thursday, February 23, 2017 10:22 AM
To: Torres, Tomas <Torres.Tomas@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>
Cc: Brush, Jason <Brush.Jason@epa.gov>; Leidy, Robert <Leidy.Robert@epa.gov>; Kermish, Laurie <Kermish.Laurie@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>; Campbell, Rich <Campbell.Rich@epa.gov>; Siu, Jennifer <Siu.Jennifer@epa.gov>
Subject: FW: Saltworks

From: Eneas Kane [mailto:EKane@dmbpv.com]
Sent: Wednesday, February 22, 2017 3:06 PM
To: Kao, Jessica <Kao.Jessica@epa.gov>
Cc: rmartella@sidley.com; David Smith <dsmith@sticeblock.com>
Subject:

Dear Ms. Kao,

We wanted to reach out and let you know that our consideration of the site and potential future uses continues, as noted below. We appreciate EPA's patience as we evaluate proposals for the future. The exchange below referenced a six-month pause on the request for a JD for the site. We feel we are making real progress toward a new proposal for all stakeholders' consideration, but the efforts are taking longer than we had hoped. Accordingly, we would like to request an additional six months for the pause as we continue our ongoing evaluation and consideration of alternatives.

Please let us know if you have any questions regarding this matter.

Sincerely,
Eneas Kane

From: Eneas Kane
Sent: Monday, September 19, 2016 9:59 AM
To: Kao, Jessica
Cc: rmartella@sidley.com; David Smith
Subject:

Dear Ms. Kao,

That is correct. As we continue to evaluate the site, and as indicated below, we are requesting a pause for a six month period, while fully preserving and reserving our legal objections. As my original email indicates, this is intended to realize only a temporary tolling of our respective efforts while preserving the status quo.

Eneas Kane

From: Kao, Jessica [<mailto:Kao.Jessica@epa.gov>]
Sent: Tuesday, September 13, 2016 6:24 PM
To: Eneas Kane
Cc: rmartella@sidley.com; David Smith
Subject: RE:

Dear Mr. Kane,

Thank you for the email notice. For clarification, I understand that the requested pause refers specifically to Saltworks' request for a Clean Water Act jurisdictional determination of its Redwood City site that is the subject of the referenced EPA special case.

Jessica Kao

Chief of Staff, Office of the Regional Administrator
USEPA, Pacific Southwest Region (Arizona, California, Hawaii, Nevada, Pacific Islands & 148 Tribes)
75 Hawthorne Street
San Francisco, CA 94105
415-972-3922

From: Eneas Kane [<mailto:EKane@dmbpv.com>]
Sent: Tuesday, September 13, 2016 1:50 PM
To: Kao, Jessica <Kao.Jessica@epa.gov>
Cc: rmartella@sidley.com; David Smith <dsmith@sticeblock.com>
Subject:

Dear Ms. Kao,

On March 18, 2015, Ken Kopocis, then Deputy Assistant Administrator of Water for EPA, informed the Corps of Engineers that EPA headquarters was granting EPA Region IX's request to place the Redwood City Saltworks on its "special case" list. Mr. Kopocis further said that this action had the effect of divesting the Corps of the authority to issue a jurisdictional determination for the site and vested such authority in EPA. It is our understanding that since that time, EPA headquarters has delegated significant responsibility for preparation of the jurisdictional determination to Region IX and that Region IX has been working and continues to work on that task. As you are aware, Saltworks respectfully believes that EPA's actions are contrary to applicable law.

At this time, as we continue to evaluate the site, we are requesting a pause of Saltworks' request for a six month period, while fully preserving and reserving our legal objections. To be clear, this is intended to realize only a temporary tolling of our respective efforts while preserving the status quo. We also will reach out in the event we believe action is warranted sooner.

We appreciate your consideration of this request. Should you have any questions, please feel free to contact me.

Eneas Kane

Message

From: Strauss, Alexis [Strauss.Alexis@epa.gov]
Sent: 2/8/2019 7:01:35 PM
To: Quast, Sylvia [Quast.Sylvia@epa.gov]; Torres, Tomas [Torres.Tomas@epa.gov]
CC: Jordan, Deborah [Jordan.Deborah@epa.gov]
Subject: Saltworks

I am told Andrew Wheeler toured the Cargill Saltworks site with Cong. Speier this week; Cargill not present.

Sent from my iPhone

Message

From: Maier, Brent [Maier.Brent@epa.gov]
Sent: 1/31/2019 8:52:40 PM
To: Quast, Sylvia [Quast.Sylvia@epa.gov]
CC: Zito, Kelly [ZITO.KELLY@EPA.GOV]
Subject: RE: Urgent: HQ OCIR Request for Review: Cargill Piece

Sylvia –

Thanks for your quick review and will pass along your suggested addition to Denis Borum in OCIR.

Brent Maier

Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256
Mobile: 415.760.9170

From: Quast, Sylvia
Sent: Thursday, January 31, 2019 12:51 PM
To: Maier, Brent <Maier.Brent@epa.gov>
Cc: Zito, Kelly <ZITO.KELLY@EPA.GOV>
Subject: RE: Urgent: HQ OCIR Request for Review: Cargill Piece

Attorney Client / Ex. 5

From: Maier, Brent
Sent: Thursday, January 31, 2019 11:44 AM
To: Quast, Sylvia <Quast.Sylvia@epa.gov>
Cc: Zito, Kelly <ZITO.KELLY@EPA.GOV>
Subject: Urgent: HQ OCIR Request for Review: Cargill Piece
Importance: High

Sylvia –

I received a follow up call from Denis Borum in HQ Congressional after our earlier call this morning. Denis

Deliberative Process / Ex. 5

this. I am working today until 3:30pm so if your review/edits occur after that time, please feel free to send to Denis directly. If I receive before the end of my workday today, I can send on to Denis. Thanks in advance.

Brent Maier

Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256

Mobile: 415.760.9170

From: Borum, Denis
Sent: Thursday, January 31, 2019 11:30 AM
To: Maier, Brent <Maier.Brent@epa.gov>
Subject: Cargill Piece
Importance: High

Hi, Brent –

Here it is. Thank you!

Denis


Denis R. Borum
Congressional Liaison Specialist
Office of Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (MC-1301A)
Washington, D.C. 20460
(202) 564-4836 (phone)
(202) 501-1549 (fax)
borum.denis@epa.gov (e-mail)

From: Strauss, Alexis [Strauss.Alexis@epa.gov]
Sent: 1/15/2019 5:38:12 PM
To: Quast, Sylvia [Quast.Sylvia@epa.gov]
Subject: Speier seeks info on EPA Cargill decision | Local News | smdailyjournal.com

<https://www.smdailyjournal.com/content/tncms/live/>

Speier seeks info on EPA Cargill decision

Rumored move would remove hurdle to development of Redwood City site

- By Zachary Clark Daily Journal staff
- Jan 15, 2019 Updated 4 hrs ago
- 

Whether the Cargill salt ponds in Redwood City are subject to the Clean Water Act has the possibility of bringing a large-scale but moribund development project back to life, but little is known if the Environmental Protection Agency is seeking to change its status.

Still, U.S. Rep. Jackie Speier, D-San Mateo, has requested more information on the EPA's plans and is requesting a meeting prior to any final decision about the site, located in her congressional district.

"In addition to Redwood City, the changes around the [salt] ponds have potential impacts on other communities and an adjacent seaport. Any final plans for the ponds may also have precedential impact upon developments throughout the Bay region," according to the letter sent last month to Andrew Wheeler, the EPA's acting director. "Many plans have been proposed over the years and it is important to my constituents and to the health of the San Francisco Bay estuary that the nation's laws regarding endangered species protection and restoration be upheld in any final proposals that are adopted for the property."

The 1,400-acre Bayside property once used to harvest commercial salt has had different development proposal iterations over the years. The most recent proposal by DMB Ventures would have created about 12,000 homes amid some wetlands restoration but was dropped in 2012 after years of controversy. While any development proposal would be subject to approval by the Redwood City Council, this site is also subject to other approvals by the Bay Conservation and Development Commission and federal agencies. Which federal agency is

the lead was the subject of some dispute until 2015 when the EPA took that on over the U.S. Army Corps of Engineers — a move in which the developer expressed disappointment.

Cargill/DMB had requested that the EPA and the U.S. Army Corps of Engineers make a jurisdictional determination over whether the site was subject to federal laws including the Clean Water and Rivers and Harbors acts. If the EPA declared it exempt from the acts, it would eliminate a significant hurdle to development.

That possibility has shaken Save the Bay, which has fought development at the site for years.

“President Trump’s Acting EPA Administrator, Andrew Wheeler, is preparing to declare that Redwood City salt ponds are not “Waters of the U.S.” protected by the Clean Water Act or Rivers and Harbors Act,” David Lewis, Save the Bay’s executive director, wrote in a statement on the nonprofit’s website. “This action surrenders federal government jurisdiction to regulate or permit development on that site, overturns decades of legal precedent and overrules previous protections supported by Bay Area EPA officials.

“We’d like Cargill to withdraw their request and for the EPA to not approve it,” he added.

The EPA declined to comment on whether a decision on the Redwood City salt ponds is impending. And David Smith, an attorney representing DMB, said he was unaware of any upcoming EPA rulings on the site.

“This lingering federal question has stifled conversation [about the future of the site] and we’ve been asking for an answer from the federal government for 12 years,” he said. “The filing has remained with the Corps and EPA for 12 years and we haven’t filed anything new.”

Even if the EPA does declare the site exempt from Clean Water Act protections, Lewis conceded that development on the salt ponds would be unlikely and face numerous obstacles.

“Even if they get this they face many barriers — state laws, Redwood City’s current zoning and land use designation that prohibits development there and would require significant changes in state laws and policies,” he said. “When this development proposal was pending, we got hundreds of neighboring city officials and state elected officials on the record saying they’re opposed to development on the salt ponds. There’s regional opposition in addition to Redwood City opposition.”

zachary@smdailyjournal.com

(650) 344-5200 ext. 102

Sent from my iPhone

Message

From: Maier, Brent [Maier.Brent@epa.gov]
Sent: 12/26/2018 4:39:41 PM
To: Quast, Sylvia [Quast.Sylvia@epa.gov]; Strauss, Alexis [Strauss.Alexis@epa.gov]
CC: Zito, Kelly [ZITO.KELLY@EPA.GOV]
Subject: (Cargill) Rep. Jackie Speier - Letter to Acting Administrator Requesting a Meeting on Redwood City Salt Ponds Prior to Jurisdictional Decision by EPA
Attachments: Rep, Jackie Speier - Letter to Acting Administrator Requesting a Meeting on Redwood City Saltponds Prior to Jurisdictional Decision by EPA.pdf; Control Information for AL-19-000-1971.pdf

Importance: High

Sylvia/Alexis –

Logged in this morning to see if there were any additional instructions for employees regarding the lapse in appropriations. Sending along as an FYI the attached letter

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Please note that I am on use/lose annual leave for the rest of this week and will check to see where things stand with any future announcements regarding the lapse in appropriations as to whether employees will return next Monday, December 31st and going forward.

Brent Maier

Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256
Mobile: 415.760.9170

Correspondence Management System

Control Number: AL-19-000-1971

Printing Date: December 26, 2018

Citizen Information

Citizen/Originator: Speier, Jackie

Organization: U.S. House of Representatives

Address: 211 Cannon HOB, Washington, DC 20515

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AL-19-000-1971

Alternate Number: N/A

Status: Pending

Closed Date: N/A

Due Date: Jan 4, 2019

of Extensions: 0

Letter Date: Dec 19, 2018

Received Date: Dec 21, 2018

Addressee: AAD-Acting Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: AA-OW-Assistant Administrator - Signature Date: N/A
OW

File Code: 301_1051_a Records of Senior Officials - Historically significant records of senior officials

Subject: MEETING REQUEST/ REDWOOD CITY SALT PONDS

Instructions: SEE TEMPLATE

Instruction Note: N/A

General Notes: N/A

State-Tribal CNTL: N/A

CC: Elizabeth Skane - OCIR-CA-WPTT
Matthew Klasen - OCIR-CA-WPTT
R9 - Region 9 - Immediate Office
Sven-erik Kaiser - OCIR-CA-WPTT

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Cassaundra Eades	OCIR	Denis Borum	Dec 21, 2018	Jan 4, 2019	N/A
Instruction: SEE TEMPLATE					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Correspondence Management System

Control Number: AL-19-000-1971

Printing Date: December 26, 2018

Action By	Office	Action	Date
Cassaundra Eades	OCIR	Control Created	Dec 21, 2018
Cassaundra Eades	OCIR	Assign Denis Borum as lead	Dec 21, 2018

Comments

Commentator	Comment	Date
No Record Found.		

JACKIE SPEIER
14TH DISTRICT, CALIFORNIA

2465 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0514
(202) 225-3531
FAX: (202) 226-4183
155 BOVET ROAD, SUITE 780
SAN MATEO, CA 94402
(650) 342-0300
FAX: (650) 375-8270

WWW.SPEIER.HOUSE.GOV
WWW.FACEBOOK.COM/JACKIESPEIER
WWW.TWITTER.COM/NEPSPEIER

Congress of the United States
House of Representatives
Washington, DC 20515-0514

COMMITTEE ON ARMED SERVICES

SUBCOMMITTEES:

RANKING MEMBER, MILITARY PERSONNEL
EMERGING THREATS

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

SUBCOMMITTEES:
EMERGING THREATS
NSA AND CYBERSECURITY

Senior Whip

December 19, 2018

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20004

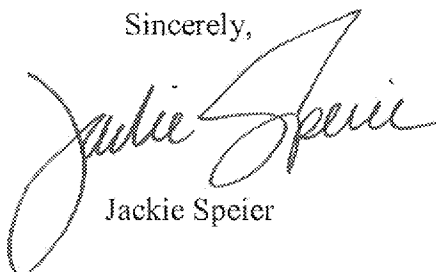
Dear Mr. Wheeler:

It is my understanding that the Environmental Protection Agency (EPA) is poised to render a decision as to whether to assert jurisdiction over the Redwood City salt ponds, which is approximately 1300 acres open to San Francisco Bay. I respectfully request an opportunity to meet with you prior to this decision being made by the EPA.

The salt ponds are located in my Congressional District and are an important opportunity for the community of Redwood City and the region. In addition to Redwood City, the changes around the ponds have potential impacts on other communities and an adjacent seaport. Any final plans for the ponds may also have precedential impact upon developments throughout the bay region. Many plans have been proposed over the years and it is important to my constituents and to the health of the San Francisco Bay estuary that the nation's laws regarding endangered species protection and restoration be upheld in any final proposals that are adopted for the property. As you know, the U.S. EPA is the agency charged with protection of those standards.

To this end, I respectfully request a meeting prior to any final decision in order to understand the agency's reasoning and to determine whether the communities that I represent, and our nation's environmental objectives, can be served by the final determination being contemplated by the EPA. I look forward to your response and ask that it be sent to my office no later than Friday, December 21, 2018.

Sincerely,



Jackie Speier

Message

From: Kermish, Laurie [Kermish.Laurie@epa.gov]
Sent: 9/18/2018 9:07:16 PM
To: Quast, Sylvia [Quast.Sylvia@epa.gov]
Subject: Just FYI re: Cargill meeting

Laurie Kermish
CWA Section Chief
Office of Regional Counsel (ORC-2)
U.S. EPA, Region 9
75 Hawthorne St.
San Francisco, CA 94105
(415) 972-3917
(415) 947-3570 (fax)
kermish.laurie@epa.gov

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From: Kupchan, Simma
Sent: Tuesday, September 18, 2018 2:00 PM
To: Kermish, Laurie <Kermish.Laurie@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>; Leidy, Robert <Leidy.Robert@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Cargill meeting

FYI – **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

that's all we know.

Thanks!

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

Message

From: Kermish, Laurie [Kermish.Laurie@epa.gov]
Sent: 9/13/2018 3:07:28 PM
To: Quast, Sylvia [Quast.Sylvia@epa.gov]
Subject: Cargill next steps (none)

From: Moffatt, Brett
Sent: Thursday, September 13, 2018 7:59 AM
To: Kermish, Laurie <Kermish.Laurie@epa.gov>
Subject: FW: next steps (none)

From: Kupchan, Simma
Sent: Thursday, September 13, 2018 7:33 AM
To: Moffatt, Brett <Moffatt.Brett@epa.gov>
Subject: next steps (none)

Hi Brett,

Deliberative Process / Ex. 5

Here's the blurb Steve sent out after meeting with David Fotouhi yesterday afternoon:

Deliberative Process / Ex. 5

Please let me know if you have further questions. Thanks again for your help.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

Message

From: Maier, Brent [Maier.Brent@epa.gov]
Sent: 12/18/2018 4:20:39 PM
To: Quast, Sylvia [Quast.Sylvia@epa.gov]
CC: Zito, Kelly [ZITO.KELLY@EPA.GOV]
Subject: RE: Sen. Feinstein Staff Inquiry on Cargill and a Forthcoming Jurisdictional Decision/Determination

Sounds good. I have a conference call today at 10:00am on Hunters Point but otherwise am pretty available.

Brent Maier

Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256
Mobile: 415.760.9170

From: Quast, Sylvia
Sent: Tuesday, December 18, 2018 8:18 AM
To: Maier, Brent <Maier.Brent@epa.gov>
Cc: Zito, Kelly <ZITO.KELLY@EPA.GOV>
Subject: Re: Sen. Feinstein Staff Inquiry on Cargill and a Forthcoming Jurisdictional Decision/Determination

I talked to HQ and will come by this morning.

Sent from my iPhone

On Dec 18, 2018, at 8:16 AM, Maier, Brent <Maier.Brent@epa.gov> wrote:

Sylvia –

Deliberative Process / Ex. 5

Brent Maier

Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256
Mobile: 415.760.9170

From: Maier, Brent
Sent: Friday, December 14, 2018 3:18 PM
To: Quast, Sylvia <Quast.Sylvia@epa.gov>
Cc: Zito, Kelly <ZITO.KELLY@EPA.GOV>
Subject: RE: Sen. Feinstein Staff Inquiry on Cargill and a Forthcoming Jurisdictional Decision/Determination

Sylvia –

Checking in before the end of my workday today at 4:30pm on Friday to see if you had a chance

Deliberative Process / Ex. 5

interest in my setting up a call with him to discuss. **Please note that I will be out on Monday on use/lose annual leave and back in on Tuesday.**

Deliberative Process / Ex. 5

when I return to the office on Tuesday. As an alternative, John Murray's direct phone line is

Conference Line/Code / Ex. 6 if you wish to call him while I am out of the office on Monday. If you wish to send him an e-mail, his e-mail address is john_murray@feinstein.senate.gov Just let me know.

Brent Maier

Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256
Mobile: 415.760.9170

From: Maier, Brent

Sent: Thursday, December 13, 2018 1:15 PM

To: Quast, Sylvia <Quast.Sylvia@epa.gov>

Cc: Moffatt, Brett <Moffatt.Brett@epa.gov>; Zito, Kelly <ZITO.KELLY@EPA.GOV>

Subject: Sen. Feinstein Staff Inquiry on Cargill and a Forthcoming Jurisdictional Decision/Determination

Importance: High

Sylvia –

Thought you might be the best person to follow up on this inquiry from John Murray in Sen. Feinstein's San Francisco Office. John called me a few minutes ago stating that a constituent had contacted the Senator's office asking about the Cargill facility in the South Bay and a jurisdictional decision as to whether Cargill was subject to WOTUS. I know that Jessica Kao was the lead for this issue before she retired. John wanted to confirm his understanding that EPA intervened with the ACOE and stated that EPA would make the determination. The constituent who he did not name also told the Senator's office that they were hearing that EPA was going to be issuing an opinion on this in the near future.

I talked with Paul Amato in our Water Division

Conference Line/Code / Ex. 6

Conference Line/Code / Ex. 6

Senator's office. If it would be easier to have a call with him, I could work to set that up.

Brent Maier

Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256
Mobile: 415.760.9170

Message

From: Quast, Sylvia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE20025C1DDA47CE92E19F6C3C440C90-SQUAST]
Sent: 2/8/2019 7:04:26 PM
To: Strauss, Alexis [Strauss.Alexis@epa.gov]; Torres, Tomas [Torres.Tomas@epa.gov]
CC: Jordan, Deborah [Jordan.Deborah@epa.gov]
Subject: RE: Saltworks

Interesting -- you can skirt some of the edges, but can't get access to the site without Cargill's help.

-----Original Message-----

From: Strauss, Alexis
Sent: Friday, February 08, 2019 11:02 AM
To: Quast, Sylvia <Quast.Sylvia@epa.gov>; Torres, Tomas <Torres.Tomas@epa.gov>
Cc: Jordan, Deborah <Jordan.Deborah@epa.gov>
Subject: Saltworks

I am told Andrew Wheeler toured the Cargill Saltworks site with Cong. Speier this week; Cargill not present.

Sent from my iPhone

Message

From: Quast, Sylvia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE20025C1DDA47CE92E19F6C3C440C90-SQUAST]
Sent: 8/14/2018 3:10:39 PM
To: Busterud, Gretchen [Busterud.Gretchen@epa.gov]
Subject: RE: Catching Up

That was an awesome catch-up – hope you are having a great vacation!

From: Busterud, Gretchen
Sent: Friday, August 10, 2018 5:16 PM
To: Quast, Sylvia <Quast.Sylvia@epa.gov>
Subject: Catching Up

Welcome back!!

Everything has been going along pretty smoothly. Some updates:

1. HA Hiring: top candidate
2. Paralegal hired – interested
3. OECA chart
4. G Trial – ne
5. Saltworks matter – **Deliberative Process / Ex. 5** coordinating with Brett & Laurie).
6. UIC copper mine permit – both 9th Circuit petitions were withdrawn.
7. American Samoa fish facility – company discussing permit issues with Governor. RA briefed.
8. Steve J and Dee did a terrific job at their MSPB hearing!
9. OGC w/ **Deliberative Process / Ex. 5** I will coordinate with Gautam when I return.
10. Kevin is offering to visit each Region to discuss OGC's ethics support services. Not mandatory.
11. Travel \$ -- **Personal Matters / Ex. 6**
12. ORC All Hands – I reserved the first floor rooms on Thursday, 9/6 from 2-3:00 pm.

I'll be back on Wednesday 8/22 and look forward to hearing about your trip then!

Best always,
Gretchen

Message

From: Quast, Sylvia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE20025C1DDA47CE92E19F6C3C440C90-SQUAST]
Sent: 1/31/2019 3:26:36 PM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: Re: fyi re Cargill

Thanks - the salt ponds are a big deal for her, as I'm sure you know.

Sent from my iPhone

On Jan 31, 2019, at 5:59 AM, Wehling, Carrie <Wehling.Carrie@epa.gov> wrote:

FYI re Cargill – thought you might want to know that Senator Feinstein has requested a meeting with the Administrator this week to discuss. We haven't been asked to prepare anything for that so no idea what he will say.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

Message

From: Quast, Sylvia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE20025C1DDA47CE92E19F6C3C440C90-SQUAST]
Sent: 12/11/2018 8:06:48 PM
To: Strauss, Alexis [Strauss.Alexis@epa.gov]
Subject: FW: draft Cargill paper
Attachments: Working Draft JD (OGC December 2018).docx; ATT00001.htm

From: Kupchan, Simma
Sent: Friday, December 07, 2018 1:56 PM
To: Quast, Sylvia <Quast.Sylvia@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: draft Cargill paper

Sylvia and Brett,

Deliberative Process / Ex. 5

Please let me know if you have any questions or would like to discuss. Thank you very much for your input and attention.

Simma Kupchan

Message

From: Quast, Sylvia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE20025C1DDA47CE92E19F6C3C440C90-SQUAST]
Sent: 9/18/2018 9:49:01 PM
To: Strauss, Alexis [Strauss.Alexis@epa.gov]
Subject: FW: Just FYI re: Cargill meeting

From: Kermish, Laurie
Sent: Tuesday, September 18, 2018 2:07 PM
To: Quast, Sylvia <Quast.Sylvia@epa.gov>
Subject: Just FYI re: Cargill meeting

Laurie Kermish
CWA Section Chief
Office of Regional Counsel (ORC-2)
U.S. EPA, Region 9
75 Hawthorne St.
San Francisco, CA 94105
(415) 972-3917
(415) 947-3570 (fax)
kermish.laurie@epa.gov

This email may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this email has been received by you in error, you are instructed to delete it from your machine and all storage media whether electronic or hard copy and call the sender at (415) 972-3917.

From: Kupchan, Simma
Sent: Tuesday, September 18, 2018 2:00 PM
To: Kermish, Laurie <Kermish.Laurie@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>; Leidy, Robert <Leidy.Robert@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Cargill meeting

Deliberative Process / Ex. 5

Thanks!

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

Message

From: Wildeman, Anna [wildeman.anna@epa.gov]
Sent: 1/7/2019 1:43:16 PM
To: Ross, David P [ross.davidp@epa.gov]
Subject: FW: AAW Hearing Prep

From: Spraul, Greg
Sent: Friday, December 28, 2018 10:38 AM
To: Wildeman, Anna <wildeman.anna@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: AAW Hearing Prep

We are developing papers for **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

From: Wildeman, Anna
Sent: Thursday, December 27, 2018 1:48 PM
To: Spraul, Greg <Spraul.Greg@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: AAW Hearing Prep

I understand Greg is working on a paper for the **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

From: Spraul, Greg
Sent: Friday, December 21, 2018 1:48 PM
To: Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Wildeman, Anna <wildeman.anna@epa.gov>
Subject: RE: AAW Hearing Prep

Dave,

Understood. Yes, there is a list. See below. Attached are the Fact Sheets we submitted to OCIR to help prep AAW in case you want to take a look – one for each topic. OCIR has likely made edits or has combined topics so these are not the final versions. We also submitted likely questions AAW would be asked by SEPW members. This list is also attached. Lee and I will work to get a meeting on the calendar in early January.

Confirmation Topic List as of December 10, 2018

Revised OCIR Short List of Topics

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Additional Topics submitted by OW

Deliberative Process / Ex. 5

-----Original Message-----

From: Ross, David P

Sent: Friday, December 21, 2018 1:36 PM

To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Spraul, Greg <Spraul.Greg@epa.gov>

Cc: Wildeman, Anna <wildeman.anna@epa.gov>

Subject: AAW Hearing Prep

Gents - I'd like to be come up to speed on what topics you are recommending AAW get prepped on. Do you have a list? We should also set up a meeting first week in January to cover this. Thanks.

Sent from my iPad

Appointment

From: Strauss, Alexis [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=848EB244E96A4F04A105967EA264320B-ASTRAUSS]
Sent: 8/1/2017 9:50:45 PM
To: Strauss, Alexis [Strauss.Alexis@epa.gov]
Subject: Ric Notini, Cargill
Start: 8/24/2017 4:00:00 PM
End: 8/24/2017 4:45:00 PM
Show Time As: Busy

Appointment

From: Gaudario, Abigail [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CF8FC9ADEC8248469A8FBB666BCBCEEB-AGAUDARI]
Sent: 1/6/2017 6:48:20 PM
To: Strauss, Alexis [Strauss.Alexis@epa.gov]; Shapiro, Mike [Shapiro.Mike@epa.gov]
CC: Edwards, Crystal [Edwards.Crystal@epa.gov]

Subject: General re: Cargill
Location: Ms. Strauss will call 202.564.0516

Start: 1/9/2017 5:30:00 PM
End: 1/9/2017 6:00:00 PM
Show Time As: Busy

Message

From: Strauss, Alexis [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=848EB244E96A4F04A105967EA264320B-ASTRAUSS]
Sent: 11/27/2017 4:37:06 PM
To: David Lewis [dlewis@savesfbay.org]
Subject: RE: Per our previous conversation

Ric is still at Newark. I've asked Sylvia to reach out to Cargill.

Alexis Strauss
Acting Regional Administrator
E.P.A. Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-972-3572

From: David Lewis [mailto:dlewis@savesfbay.org]
Sent: Monday, November 27, 2017 8:30 AM
To: Strauss, Alexis <Strauss.Alexis@epa.gov>
Subject: Per our previous conversation

I don't have any further information about who might be managing the complex out of Newark.

I did determine that Pat moved to a different company this summer <https://www.linkedin.com/in/pat-mapelli-a8315a127>

Ric may still be there: <https://www.linkedin.com/in/ric-notini-601a343/>

--

David Lewis
Executive Director, Save The Bay
dlewis@saveSFbay.org
510.463.6802
www.saveSFbay.org | [@saveSFbay](https://twitter.com/saveSFbay)

SAVE THE BAY

Message

From: Strauss, Alexis [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=848EB244E96A4F04A105967EA264320B-ASTRAUSS]
Sent: 1/9/2017 4:34:21 PM
To: Meiburg, Stan [Meiburg.Stan@epa.gov]; Shapiro, Mike [Shapiro.Mike@epa.gov]
Subject: RE: R9 weekend note

We mean Cargill, right?

Alexis Strauss
Acting Regional Administrator
E.P.A. Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-972-3572

From: Meiburg, Stan
Sent: Monday, January 9, 2017 5:00 AM
To: Strauss, Alexis <Strauss.Alexis@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: Re: R9 weekend note

Mike and Alexis, the Calpine matter needs to be closed out quickly. Please let me know if there is anything you need from me.

Stan

A. Stanley Meiburg
Acting Deputy Administrator
U.S. Environmental Protection Agency

Sent from my iPhone

On Jan 7, 2017, at 5:04 PM, Strauss, Alexis <Strauss.Alexis@epa.gov> wrote:

Navajo Nation:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Air: we're briefing Janet on actions for the Administrator's signature next week. The

Deliberative Process / Ex. 5

Pesticides: following my meeting with the California ag commissioners a few weeks ago, some have asked to partner with us **Nonresponsive Discussion of Personal Matters / Ex. 6**

Deliberative Process / Ex. 5

Wetlands: we hosted a very well-attended San Francisco Bay wetlands conference. A recent successful ballot measure will generate \$500 million to fund shoreline habitat restoration and resilience. This was the first opportunity for a coalition of government agencies, NGOs and private-sector partners to discuss how we can work together to improve the San Francisco Bay and estuary with this sustained funding source. On a separate note, we will work with OW and OGC **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Hiring: we are intensively focused on hiring. As of week's end, we will have hired 50 staff since the start of FY2017 – you can all be proud of the caliber of incoming staff.

Best wishes,
Alexis

Message

From: Strauss, Alexis [Strauss.Alexis@epa.gov]
Sent: 1/6/2017 6:45:12 PM
To: Gaudario, Abigail [Gaudario.Abigail@epa.gov]
Subject: Re: Cargill

No paper needed, thx

Sent from my iPhone

On Jan 6, 2017, at 9:16 AM, Gaudario, Abigail <Gaudario.Abigail@epa.gov> wrote:

<image001.jpg>

Good Morning!

Mike Shapiro's office called and he wants to speak to you about Cargill. I set-up the call at 930 on Monday since your afternoon is with Steve Brittle.

Would you like a briefing paper or for me to arrange for a quick update with someone from ORC?

Nonresponsive Discussion of Personal Matters / Ex. 6

Abigail C Gaudario
(415) 947-4238

Message

From: Strauss, Alexis [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=848EB244E96A4F04A105967EA264320B-ASTRAUSS]
Sent: 1/6/2017 12:13:14 AM
To: Strauss, Alexis [Strauss.Alexis@epa.gov]
Subject: R9 weekend note

Navajo Nation:

Deliberative Process / Ex. 5

Air: we're briefing Janet on actions for the Administrator's signature next week. Nonresponsive Discussion of Personal Matters / Ex. 6

Deliberative Process / Ex. 5

Pesticides: following my meeting with the California ag commissioners a few weeks ago, some have asked to partner

Deliberative Process / Ex. 5

Wetlands: we hosted a very well-attended San Francisco Bay wetlands conference. A recent successful ballot measure will generate \$500 million to fund shoreline habitat restoration and resilience. This was the first opportunity for a coalition of government agencies, NGOs and private-sector partners to discuss how we can work together to improve the San Francisco Bay and estuary with this sustained funding source. On a separate note

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Hiring: we are intensively focused on hiring. As of week's end, we will have hired 50 staff since the start of FY2017 – you can all be proud of the caliber of incoming staff.

Best wishes,
Alexis

Message

From: Strauss, Alexis [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=848EB244E96A4F04A105967EA264320B-ASTRAUSS]
Sent: 1/4/2017 6:56:36 PM
To: Jessica Kao (Kao.Jessica@epa.gov) [Kao.Jessica@epa.gov]
Subject: FW: R9 CWA issue

Can you speak with Derek Threet re sharepoint? Thx

Alexis Strauss
Acting Regional Administrator
E.P.A. Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-972-3572

From: Meiburg, Stan
Sent: Wednesday, January 4, 2017 10:56 AM
To: Strauss, Alexis <Strauss.Alexis@epa.gov>
Cc: Flynn, Mike <Flynn.Mike@epa.gov>; Kao, Jessica <Kao.Jessica@epa.gov>; Anderson, Denise <anderson.denise@epa.gov>; Threet, Derek <Threet.Derek@epa.gov>; Burton, Tamika <burton.tamika@epa.gov>
Subject: Re: R9 CWA issue

Be happy to. Denise, can you work with Region 9 on a time?

And can you get me a more specific sharepoint link? I can ask Derek to pull the documents off for me to look at.

Thanks,

Stan

Sent from my iPhone

On Jan 4, 2017, at 1:47 PM, Strauss, Alexis <Strauss.Alexis@epa.gov> wrote:

Dear Stan,

Deliberative Process / Ex. 5

Alexis Strauss
Acting Regional Administrator
E.P.A. Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-972-3572

Message

From: Strauss, Alexis [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=848EB244E96A4F04A105967EA264320B-ASTRAUSS]
Sent: 1/4/2017 6:47:26 PM
To: Meiburg, Stan [Meiburg.Stan@epa.gov]
CC: Flynn, Mike [Flynn.Mike@epa.gov]; Jessica Kao (Kao.Jessica@epa.gov) [Kao.Jessica@epa.gov]
Subject: R9 CWA issue

Dear Stan,

Deliberative Process / Ex. 5

Kind regards,
Alexis

Alexis Strauss
Acting Regional Administrator
E.P.A. Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-972-3572

Message

From: Blake, Ellen [Blake.Ellen@epa.gov]
Sent: 8/28/2018 11:09:28 PM
To: Torres, Tomas [Torres.Tomas@epa.gov]
Subject: Fwd: 404

FYSA

Sent from my iPhone

Begin forwarded message:

From: "Best-Wong, Benita" <Best-Wong.Benita@epa.gov>
Date: August 28, 2018 at 3:21:47 PM PDT
To: "Strauss, Alexis" <Strauss.Alexis@epa.gov>
Cc: "Connors, Sandra" <Connors.Sandra@epa.gov>, "Miller, Amy" <Miller.Amy@epa.gov>, "Blake, Ellen" <Blake.Ellen@epa.gov>
Subject: Re: 404

Alexis - I appreciate you sharing this information with us.

Regards,
Benita

Sent from my iPhone

On Aug 28, 2018, at 6:11 PM, Strauss, Alexis <Strauss.Alexis@epa.gov> wrote:

Deliberative Process / Ex. 5

Alexis Strauss
E.P.A. Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-972-3572

Message

From: Torres, Tomas [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8B2F42BB7A684E199190092E3A2E7520-TTORRES]
Sent: 9/28/2018 5:10:46 PM
To: Miller, Amy [Miller.Amy@epa.gov]; Alexis Strauss [Strauss.Alexis@epa.gov]; Jordan, Deborah [Jordan.Deborah@epa.gov]; Quast, Sylvia [Quast.Sylvia@epa.gov]
Subject: Salt Ponds

FYI - I spoke with Benita this morning about Dave Ross' visit to R9. She mentioned that Dave is recused from all matters related to the south bay salt ponds, and unlikely to discuss with Stoker.

Thx

Tomás Torres, Director, Water Division
U.S. Environmental Protection Agency
75 Hawthorne Street (WTR-1)
San Francisco, CA 94105
(415) 972-3337
Visit us at: epa.gov/region9/water

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 10/1/2018 6:17:29 PM
To: Ruggs, Tasheka [ruggs.tasheka@epa.gov]
CC: Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: FW: Adding briefing papers for Matt to his "digital file cabinet" - deadline for attorneys 2:00 PM Tuesday
Attachments: Options on Redwood City 8.29.18 (R9 comment).docx; State Assumption Legal Background.docx; Support for Approach to SWANCC in WOTUS Step 2 Draft Preamble 9.6.18.docx; FL DA MOA 9.21.18.docx; FL EPA MOA 9.21.18.docx

Importance: High

Tasheka,

Could you please put the attached papers into Matt's digital file cabinet?

Deliberative Process / Ex. 5

Thanks you!

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Neugeboren, Steven
Sent: Monday, October 1, 2018 1:42 PM
To: OGC WLO <OGC_WLO@epa.gov>
Subject: Adding briefing papers for Matt to his "digital file cabinet" - deadline for attorneys 2:00 PM Tuesday
Importance: High

Deliberative Process / Ex. 5

Thanks.

Steve Neugeboren

Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Mills, Derek
Sent: Friday, September 28, 2018 4:23 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: FW: Announcing Matt's Digital File Cabinet
Importance: High

Steve,

Deliberative Process / Ex. 5

Derek Mills
Special Assistant, Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-3341

From: Leopold, Matt (OGC)
Sent: Friday, September 28, 2018 2:08 PM
To: Mills, Derek <Mills.Derek@epa.gov>
Subject: FW: Announcing Matt's Digital File Cabinet

Hi, could you ask WLO to add their materials to the file cabinet? Thanks

From: Leopold, Matt (OGC)
Sent: Monday, August 20, 2018 12:59 PM
To: Mills, Derek <Mills.Derek@epa.gov>; OGC RCs and DRCs <OGC_RCs_and_DRCs@epa.gov>; OGC HQ ADDs <OGC_HQ_ADDs@epa.gov>
Cc: OGC Immediate Office All <OGC_Immediate_Office_All@epa.gov>
Subject: RE: Announcing Matt's Digital File Cabinet

Thank you Derek for pulling this together and for everyone's help in implementing!

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Mills, Derek
Sent: Monday, August 20, 2018 10:36 AM
To: OGC RCs and DRCs <OGC_RCs_and_DRCs@epa.gov>; OGC HQ ADDs <OGC_HQ_ADDs@epa.gov>
Cc: OGC Immediate Office All <OGC_Immediate_Office_All@epa.gov>

Subject: Announcing Matt's Digital File Cabinet

Importance: High

Hello ADDs/RCs/DRCs,

As mentioned at the last OGC Senior Staff Meeting, below is the new SharePoint site titled "Matt's Digital File Cabinet."

internal URL/ Ex. 6

Deliberative Process / Ex. 5

5. You can start using the site today!

Let me know if you have any questions, comments, or concerns. Thanks all!

Derek Mills

Special Assistant, Office of General Counsel

U.S. Environmental Protection Agency

(202) 564-3341

Message

From: Wehling, Carrie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: 1/4/2017 3:31:51 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: RE: next steps on Cargill

Personal Matters / Ex. 6

Thanks.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Kupchan, Simma
Sent: Wednesday, January 04, 2017 10:22 AM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: next steps on Cargill

Personal Matters / Ex. 6

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Wehling, Carrie
Sent: Wednesday, January 04, 2017 9:18 AM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: next steps on Cargill

Looks good. Just a small suggested edit.
Would you like me to followup with Greg, or would you prefer to do so (in response to Steve's email)?
Thanks.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492

wehling.carrie@epa.gov

From: Kupchan, Simma
Sent: Tuesday, January 03, 2017 4:50 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: next steps on Cargill

Thanks, Carrie. That approach makes sense to me. Do you want to review the attached draft before sending to Steve? I started with OW's note and edited pretty substantially.

Thanks,

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Wehling, Carrie
Sent: Tuesday, January 03, 2017 3:37 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: RE: next steps on Cargill

My instinct would be to Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 But I am still pretty green on 404 transactions, so copying Steve for his input.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Kupchan, Simma
Sent: Tuesday, January 03, 2017 2:46 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: next steps on Cargill

OW's draft memo is Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Wehling, Carrie
Sent: Tuesday, January 03, 2017 2:21 PM

To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: next steps on Cargill

Simma – Steve and I discussed

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let me know if you'd like to discuss what should go in that –

Deliberative Process / Ex. 5

Thanks.

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Garbow, Avi

Sent: Thursday, December 22, 2016 4:23 PM

To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>

Subject: RE: next steps on Cargil

Folks,

I am comfortable with this approach. See if you can run this through Sylvia. I am happy to call Alexis if Sylvia or others think it would be helpful.

Thanks very much.

Avi

Avi Garbow
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Neugeboren, Steven

Sent: Wednesday, December 21, 2016 11:36 AM

To: Garbow, Avi <Garbow.Avi@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>

Subject: next steps on Cargil

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

If you do have a conversation with Alexis, we'd suggest the following points.

-
- ## Deliberative Process / Ex. 5

- My folks have done a first draft and will share it with the region for your review/comment to ensure full coordination.

- ## Deliberative Process / Ex. 5

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

Appointment

From: Wehling, Carrie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: 1/24/2017 9:37:55 PM
To: Fischer, Lauren [Fischer.Lauren@epa.gov]; Silver, Wendy [Silver.Wendy@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Hicks, Matt [Hicks.Matthew@epa.gov]; Pallesen, Reginald [pallesen.reginald@epa.gov]; Schwartz, Paul [Schwartz.Paul@epa.gov]; Mairs, Stephanie [Mairs.Stephanie@epa.gov]; Livingston, Peggy [Livingston.Peggy@epa.gov]; Schefski, Melissa [Schefski.Melissa@epa.gov]; Messier, Dawn [Messier.Dawn@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Shamet, Stefania [Shamet.Stefania@epa.gov]; Saporita, Chris [Saporita.Chris@epa.gov]; Moffatt, Brett [Moffatt.Brett@epa.gov]; Przyborski, Jay [Przyborski.Jay@epa.gov]; Beveridge, Laura [Beveridge.Laura@epa.gov]; Wester, Barbara [wester.barbara@epa.gov]; Kao, Jessica [Kao.Jessica@epa.gov]; Williams, Ann [Williams.Ann@epa.gov]; Clovis, Debora [Clovis.Debora@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Perkins, Erin [Perkins.Erin@epa.gov]; Murdock, Russell [Murdock.Russell@epa.gov]; Trevino, Jeffery [trevino.jeffery@epa.gov]; Knorr, Michele [Knorr.Michele@epa.gov]; Lazos, Pamela [Lazos.Pamela@epa.gov]; Kopf, Jeff [Kopf.Jeff@epa.gov]; Ghosh, Mita [Ghosh.Mita@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]; Mikalian, Charles [mikalian.charles@epa.gov]; Klassman, Debra [klassman.debra@epa.gov]; Cherry, Andrew [Cherry.Andrew@epa.gov]; Szalay, Endre [Szalay.Endre@epa.gov]; Muehlberger, Christopher [muehlberger.christopher@epa.gov]; Logan, Paul [Logan.Paul@epa.gov]; Topping, Brian [Topping.Brian@epa.gov]; Vinch, James [Vinch.James@epa.gov]; Theis, Joseph [Theis.Joseph@epa.gov]; Adams, Margery [adams.margery@epa.gov]; VonVacano, Marcela [VonVacano.Marcela@epa.gov]; Landers, Timothy [Landers.Timothy@epa.gov]; Downing, Donna [Downing.Donna@epa.gov]; Volk, Everett [volk.everett@epa.gov]; Mancusi-Ungaro, Philip [Mancusi-Ungaro.Philip@epa.gov]; Muller, Sheldon [Muller.Sheldon@epa.gov]; Wade, Alexis [Wade.Alexis@epa.gov]; Rucki, Thomas [Rucki.Thomas@epa.gov]; Lapp, Jeffrey [lapp.jeffrey@epa.gov]; Stokely, Peter [Stokely.Peter@epa.gov]; Stern, Allyn [Stern.Alyn@epa.gov]; Kermish, Laurie [Kermish.Laurie@epa.gov]; Speir, Jeffrey [speir.jeffrey@epa.gov]
CC: Miller, Clay [Miller.Clay@epa.gov]; Denawa, Mai [Denawa.Mai@epa.gov]
BCC:

Conference Line/Code / Ex. 6

Subject: 404 attorneys monthly call
Attachments: rebutttal to stockdale memo2017-01-13.pdf
Location: DCConfARN: **Conference Line/Code / Ex. 6** /WLO-Conf-Line/DC-Ariel-Rios-OGC
Start: 1/25/2017 6:00:00 PM
End: 1/25/2017 7:00:00 PM
Show Time As: Tentative

Recurrence: Monthly
Occurs every month on the fourth Wednesday of the month from 1:00 PM to 2:00 PM effective 8/24/2016 until 9/27/2017. (UTC-05:00) Eastern Time (US & Canada)

Agenda so far:

1. CWR litigation update
2. **Deliberative Process / Ex. 5**



rebutttal to
stockdale memo...

3. **Deliberative Process / Ex. 5**
4. Other updates?

Message

From: Wehling, Carrie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: 1/4/2017 2:18:17 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: RE: next steps on Cargill

<!--[if lte mso 15 || CheckWebRef]-->

Wehling, Carrie has shared a OneDrive for Business file with you. To view it, click the link below.



Cover memo for Legal Principles Memo sak cw.docx

<!--[endif]-->

Looks good. Just a small suggested edit.

Would you like me to followup with Greg, or would you prefer to do so (in response to Steve's email)?

Thanks.

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Kupchan, Simma
Sent: Tuesday, January 03, 2017 4:50 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: next steps on Cargill

Thanks, Carrie. That approach makes sense to me. Do you want to review the attached draft before sending to Steve? I started with OW's note and edited pretty substantially.

Thanks,

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Wehling, Carrie
Sent: Tuesday, January 03, 2017 3:37 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: RE: next steps on Cargill

My instinct would be to

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Kupchan, Simma
Sent: Tuesday, January 03, 2017 2:46 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: next steps on Cargill

OW's draft memo is Deliberative Process / Ex. 5 Do we like that approach, or Deliberative Process / Ex. 5
Deliberative Process / Ex. 5 ? Or should we check with Steve?

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Wehling, Carrie
Sent: Tuesday, January 03, 2017 2:21 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: next steps on Cargill

Simma – Steve and I discussed and he is going to followup with Sylvia. I think the idea is to Deliberative Process / Ex. 5
Deliberative Process / Ex. 5
Deliberative Process / Ex. 5 Deliberative Process / Ex. 5

Let me know if you'd like to discuss what should go in that Deliberative Process / Ex. 5

Thanks.

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Garbow, Avi
Sent: Thursday, December 22, 2016 4:23 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: next steps on Cargil

Folks,

I am comfortable with this approach. See if you can run this through Sylvia. I am happy to call Alexis if Sylvia or others think it would be helpful.

Thanks very much.

Avi

Avi Garbow
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Neugeboren, Steven
Sent: Wednesday, December 21, 2016 11:36 AM
To: Garbow, Avi <Garbow.Avi@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: next steps on Cargil

Deliberative Process / Ex. 5

If you do have a conversation with Alexis, we'd suggest the following points.

• Deliberative Process / Ex. 5

- My folks have done a first draft and will share it with the region for your review/comment to ensure full coordination.
- Whatever OW decides to do with the JD, we think **Deliberative Process / Ex. 5**
- **Deliberative Process / Ex. 5**

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency

202-564-5488

Message

From: Wehling, Carrie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC74896988BE69849B301DA6-CWEHLING]
Sent: 1/3/2017 7:17:37 PM
To: Goodin, John [Goodin.John@epa.gov]
CC: Benita Best-Wong [Best-Wong.Benita@epa.gov]; Downing, Donna [Downing.Donna@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Subject: Cargill

John and Benita ---

Deliberative Process / attorney client Ex. 5

Deliberative Process / attorney client Ex. 5

Let me know if you'd like to discuss.

Thanks.

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

Message

From: Wehling, Carrie [Wehling.Carrie@epa.gov]
Sent: 1/13/2017 10:49:21 PM
To: Kao, Jessica [Kao.Jessica@epa.gov]
Subject: Re: Cargill -- rebuttal of Stockdale memo

Yes. A task for Tuesday.

Sent from my iPhone

On Jan 13, 2017, at 5:37 PM, Kao, Jessica <Kao.Jessica@epa.gov> wrote:

Carrie – may want to consider sending the pdf version for the rebuttal?

From: Wehling, Carrie
Sent: Friday, January 13, 2017 2:15 PM
To: Adams, Margery <adams.margery@epa.gov>; Beveridge, Laura <Beveridge.Laura@epa.gov>; Cherry, Andrew <Cherry.Andrew@epa.gov>; Clovis, Debora <Clovis.Debora@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Denawa, Mai <Denawa.Mai@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Fischer, Lauren <Fischer.Lauren@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Kao, Jessica <Kao.Jessica@epa.gov>; Kermish, Laurie <Kermish.Laurie@epa.gov>; Klassman, Debra <klassman.debra@epa.gov>; Knorr, Michele <knorr.michele@epa.gov>; Kopf, Jeff <Kopf.Jeff@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Landers, Timothy <Landers.Timothy@epa.gov>; Lapp, Jeffrey <lapp.jeffrey@epa.gov>; Lazos, Pamela <Lazos.Pamela@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Logan, Paul <Logan.Paul@epa.gov>; Mairs, Stephanie <Mairs.Stephanie@epa.gov>; Mancusi-Ungaro, Philip <Mancusi-Ungaro.Philip@epa.gov>; Mikalian, Charles <mikalian.charles@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>; Muehlberger, Christopher <muehlberger.christopher@epa.gov>; Muller, Sheldon <Muller.Sheldon@epa.gov>; Murdock, Russell <Murdock.Russell@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Pallesen, Reginald <pallesen.reginald@epa.gov>; Perkins, Erin <Perkins.Erin@epa.gov>; Przyborski, Jay <Przyborski.Jay@epa.gov>; Rucki, Thomas <Rucki.Thomas@epa.gov>; Saporita, Chris <Saporita.Chris@epa.gov>; Schefski, Melissa <Schefski.Melissa@epa.gov>; Schwartz, Paul <Schwartz.Paul@epa.gov>; Shamet, Stefania <Shamet.Stefania@epa.gov>; Silver, Wendy <Silver.Wendy@epa.gov>; Speir, Jeffrey <speir.jeffrey@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Stokely, Peter <Stokely.Peter@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Topping, Brian <Topping.Brian@epa.gov>; Trevino, Jeffery <trevino.jeffery@epa.gov>; Vinch, James <Vinch.James@epa.gov>; Volk, Everett <volk.everett@epa.gov>; VonVacano, Marcela <VonVacano.Marcela@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Wester, Barbara <wester.barbara@epa.gov>; Williams, Ann <Williams.Ann@epa.gov>
Subject: FW: Cargill -- rebuttal of Stockdale memo

And yet more.... An GC opinion superseding the 2014 Corps legal opinion re Cargill's salt ponds.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel

Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

Message

From: Wehling, Carrie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: 8/28/2018 7:37:07 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: RE: Redwood City

Thanks for your quick work on finishing this, Simma.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

-----Original Message-----

From: Kupchan, Simma
Sent: Tuesday, August 28, 2018 3:29 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>
Subject: RE: Redwood City

Attached is a revised draft of the document. I will send to Steve Neugeboren tomorrow afternoon, so please send any comments you would like to be included in his draft to me by 2:30 pm EST (11:30 Pacific). I apologize for the short turnaround. Any comments sent between now and the end of the week will be included in the draft we provide to David Fotouhi early next week.

Thanks for your assistance!

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

-----Original Message-----

From: Neugeboren, Steven
Sent: Tuesday, August 28, 2018 12:20 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>
Subject: RE: Redwood City

I'd like to get it by tomorrow if possible to leave plenty of time for review/revision for Matt. Complicated and holiday Monday.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

-----Original Message-----

From: Fotouhi, David
Sent: Tuesday, August 28, 2018 10:28 AM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>
Subject: RE: Redwood City

If possible, please aim to have this ready to brief Matt next Thursday or Friday (with a pre-meeting with me next Wednesday).

David Fotouhi

Deputy General Counsel
Office of General Counsel

U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

-----Original Message-----

From: Kupchan, Simma
Sent: Tuesday, August 28, 2018 10:25 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>
Subject: RE: Redwood City

Thanks, Steve. I sent it to R9 last week for Regional Counsel-level review, but Karyn and Brett responded with an additional round of feedback, so I believe Brett was waiting to send to Sylvia until I addressed their comments. I had told Brett I would send him a revised draft this morning for Sylvia to review, and once she has reviewed we will send it to you, Steve.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

-----Original Message-----

From: Neugeboren, Steven
Sent: Tuesday, August 28, 2018 9:11 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>
Subject: RE: Redwood City

My folks prepared a paper and I believe Sylvia is currently reviewing it and then it was going to come to me for review. Copying her here for confirmation and input on timing.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

-----Original Message-----

From: Fotouhi, David
Sent: Tuesday, August 28, 2018 9:08 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: Redwood City

Matt would like us to brief him on options. Could you please reach out to Carla to schedule a time? Are we close to having a paper prepared? Thanks.

Sent from my iPhone

Message

From: Wehling, Carrie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: 1/13/2017 9:50:48 PM
To: Peck, Gregory [Peck.Gregory@epa.gov]
CC: Kupchan, Simma [Kupchan.Simma@epa.gov]; Moffatt, Brett [Moffatt.Brett@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]; Benita Best-Wong [Best-Wong.Benita@epa.gov]; Downing, Donna [Downing.Donna@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]
Subject: Cargill -- rebuttal of Stockdale memo
Attachments: OGC-3008.pdf; Response to Corps Principles Memo on Cargill 1.13.17.docx

Here it is.
Whew. What a day. Martinis anyone? ☺
Thanks, all.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Veney, Carla
Sent: Friday, January 13, 2017 4:47 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: pdf

Hi Carrie, I submitted the final into CTS but just in case you can't open it, here you go. Thanks.

Carla Veney
Executive Assistant to the General Counsel
Office of the General Counsel
Environmental Protection Agency
Telephone: (202) 564-1619
Fax: (202) 564-1777

Message

From: Wehling, Carrie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: 1/13/2017 9:46:45 PM
To: Carla Veney [Veney.Carla@epamail.epa.gov]
Subject: RE: Your document package has completed all routing steps. ACTION NEEDED - SEE INSIDE

THANKS!!!

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Carla Veney [mailto:Veney.Carla@epamail.epa.gov]
Sent: Friday, January 13, 2017 4:45 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Mitchell, Stacey <Mitchell.Stacey@epa.gov>
Subject: Your document package has completed all routing steps. ACTION NEEDED - SEE INSIDE

Your package with the case name/subject of rebuttal of 2014 Stockdale memo on Cargill has completed routing.

ACTION NEEDED:

Your document has been approved for signature. Please coordinate with the Front Office support staff to finalize the document and arrange for it to be mailed or emailed as appropriate.

IMPORTANT: this e-mail notification points to a link that contains your package. The notification itself is not evidence of approval.

LINK -> **internal URL / Ex. 6**

Message

From: Wehling, Carrie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: 1/13/2017 4:13:58 PM
To: Peck, Gregory [Peck.Gregory@epa.gov]; Goodin, John [Goodin.John@epa.gov]
CC: Benita Best-Wong [Best-Wong.Benita@epa.gov]; Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]
Subject: FW: REVISED Cover note and draft of Cargill memo
Attachments: Principles Memo Response Cover Note from Avi.docx; Response to Corps Principles Memo on Cargill 1.13.17.docx

Revised versions.... Waiting for Stacey's go ahead to put into signature database for Avi.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Wehling, Carrie
Sent: Friday, January 13, 2017 11:13 AM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Mitchell, Stacey <Mitchell.Stacey@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: REVISED Cover note and draft of Cargill memo

Here are the current versions. Incorporates last edits from R9 and Steve.
Thanks, Stacey.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Kupchan, Simma
Sent: Thursday, January 12, 2017 4:22 PM
To: Mitchell, Stacey <Mitchell.Stacey@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Cover note and latest draft of Cargill memo

Hi Stacey,

Attached is the revised draft of the Cargill cover note that would go from Avi to Mike Shapiro, along with the final draft of the Principles Memo Response, for your convenience. I am also sending to R9 as an FYI.

Please let us know if you have any comments or questions. As soon as we hear back from you, I will put it into CTS for Avi's signature. **The goal is for Avi to sign the cover note tomorrow.**

Thank you for your attention to this!

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Kupchan, Simma
Sent: Thursday, January 12, 2017 1:10 PM
To: Mitchell, Stacey <Mitchell.Stacey@epa.gov>; Steven Neugeboren <Neugeboren.Steven@epa.gov>; Carrie Wehling <Wehling.Carrie@epa.gov>
Subject: Latest draft of Cargill Memo

Stacey,

Attached is the revised draft of the Cargill memo, incorporating Region 9's and WLO's comments. Please let me know if you have any comments. Thank you.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

Message

From: Wehling, Carrie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: 9/6/2018 9:06:26 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: RE: Briefing Matt tomorrow on Redwood City

Thank you, Simma. See you tomorrow.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Kupchan, Simma
Sent: Thursday, September 06, 2018 4:59 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: FW: Briefing Matt tomorrow on Redwood City

David,

R9 ORC will be joining tomorrow's call on Redwood City.

Deliberative Process /attorney work product Ex. 5

Deliberative Process /attorney work product Ex. 5

Deliberative Process /attorney work product Ex. 5

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

Message

From: Threet, Derek [Threet.Derek@epa.gov]
Sent: 1/5/2017 4:29:17 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]
Subject: RE: Document Request for Stan Meiburg from Redwood City 404 Share Site

Great.

Thanks a ton.

Derek

From: Kupchan, Simma
Sent: Thursday, January 05, 2017 11:27 AM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Threet, Derek <Threet.Derek@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Subject: RE: Document Request for Stan Meiburg from Redwood City 404 Share Site

Hi Derek,

Apologies for the delay. I was in meetings until now. Here is the draft.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Wehling, Carrie
Sent: Thursday, January 05, 2017 8:50 AM
To: Threet, Derek <Threet.Derek@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: Document Request for Stan Meiburg from Redwood City 404 Share Site

Hey, Derek – Simma has the information you are looking for and is lead on this case. Am copying her here.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Threet, Derek
Sent: Thursday, January 05, 2017 8:43 AM
To: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>

Subject: Document Request for Stan Meiburg from Redwood City 404 Share Site

Importance: High

Carrie and Karyn –

Deliberative Process / Ex. 5

Any assistance you can provide would be wonderful.

Thanks.

Derek

Derek Jason Threet, Special Assistant
Office of the Administrator (OW, OEI, OCFO)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, D.C. 20004
Telephone: (202) 564-1409
Office Cell Phone: (919) 530-0643

Message

From: DC-WJCN-7426-M@epa.gov [DC-WJCN-7426-M@epa.gov]
Sent: 1/11/2017 8:14:18 PM
To: Wendelowski, Karyn [wendelowski.karyn@epa.gov]
Subject: avi talking points
Attachments: image2017-01-11-151417.pdf

Message

From: Woo, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D53F5B113CB44C0E8EF0C862FE5E939C-NWOO]
Sent: 8/18/2017 5:41:45 PM
To: Torres, Tomas [Torres.Tomas@epa.gov]; Kristin Gullatt (Gullatt.Kristin@epa.gov) [Gullatt.Kristin@epa.gov]
Subject: FW: HOLD for Codiga/Oro Loma tour- 9/28

This is a good field trip, if any of you can spare the time.

Also, we are working on a tour of the SF Oceanside plant as well.
nw

Nancy Woo
Assistant Director, Water Division
U.S. EPA, Region 9
75 Hawthorne St, San Francisco, CA 94105
Phone: 415-972-3409

From: Smith, DavidW
Sent: Friday, August 18, 2017 10:37 AM
To: R9-WTR23 <R9-WTR23@epa.gov>; Woo, Nancy <Woo.Nancy@epa.gov>; Hashimoto, Janet <Hashimoto.Janet@epa.gov>; Ziegler, Sam <Ziegler.Sam@epa.gov>; Brush, Jason <Brush.Jason@epa.gov>; Fleming, Terrence <Fleming.Terrence@epa.gov>; Valiela, Luisa <Valiela.Luisa@epa.gov>
Subject: HOLD for Codiga/Oro Loma tour- 9/28

Hi Folks

I would like to invite you to a tour on Thursday, 9/28/17, of two very interesting local wastewater management locations that will enable us to discuss wastewater management innovation opportunities and challenges. We would first visit the Codiga Resource Recovery on the campus of Stanford University. Codiga is a nationally known testbed facility that enables large scale testing of wastewater and stormwater treatment technologies, and also has in place anerobic secondary treatment facilities. We would visit Codiga in the morning, then probably pause at the park south of Cargill-Redwood City for lunch and a look at Cargill **Deliberative Process / Ex. 5** Bay wetland restoration opportunities. After lunch, we would cross the San Mateo Bridge and go to visit the Oro Loma San District Plant in the East Bay. The main things to visit there will include the very exciting horizontal levee wastewater treatment pilot project, which is going gangbusters now. We can also see/talk about a large scale pilot test currently underway there to evaluate the use of Peracetic Acid (PAA) as an alternative disinfection method. We can also talk about their upcoming plans/alternatives for enhanced nutrient control. We will be done by 3 or so to beat traffic and can drop people at BART or maybe catch rides closer to home depending on who drives. I **Personal Matters / Ex. 6**

I expect we will be using private vehicles. My van can hold 6-7. I will be looking for other volunteer drivers. Pls LMK if you want to make it. For my section, this is semi required.

Promises to be very interesting!

David Smith
Manager
NPDES Permits Section (WTR-2-3)
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, CA 94602
(415) 972-3464 (office)

(415) 972-947-3545 (fax)